



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

STATE: Department of Insurance
MULTI-COUNTY: Independent Cities Risk
Management Authority

A written comment period has been established commencing on **July 22, 2011**, and closing on **September 5, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention **Cynthia Fisher**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **September 5, 2011**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code(s) and approve it as revised, or return the proposed code(s) for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to **Cynthia Fisher**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to **Cynthia Fisher**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO RE-ADOPT REGULATION SECTION 1859.166.2, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to re-adopt the above-referenced regulation section contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may re-adopt the section substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to re-adopt the above-referenced regulation section under the authority provided by Sections 17070.35 and 17078.64 of the Education Code. The proposals interpret and make specific reference Sections 17078.52 and 17078.53 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by

the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

“Inactive” Status for Preliminary Charter School Apportionments.

The SAB, at its January 28, 2009 meeting, adopted SFP Regulation Section 1859.166.2 to help prevent Preliminary Charter School Apportionments from expiring during the State’s ongoing fiscal crisis. The proposed amendments responded to the Pooled Money Investment Board’s (PMIB) action on December 17, 2008, to temporarily halt disbursements for capital projects, including the construction of public schools. Without these amendments, school districts and charter schools with previously approved preliminary charter school apportionments (reservations of bond funding) were still required to move their projects forward and convert to final apportionments within time limits as set forth in Education Code Section 17078.25(a) and (b). The SAB was authorized through emergency regulations to find Preliminary Charter School Apportionments “inactive” under the Charter School Facilities Program (CSFP).

The PMIB cessation of school bond funding left many school districts and charter schools financially unable to move forward with their projects, thus risking the rescission of the preliminary charter school apportionments for failure to convert to final apportionments. The SAB approving “inactive” status for the preliminary charter school apportionments suspended the time period for converting to final apportionments. (This period is four years from the date of the preliminary apportionment plus an allowable one-year extension upon SAB approval.) The time period will resume as it existed on December 17, 2008 when the SAB finds that State financing is available for bond-funded projects. The OAL approved the emergency regulations in OAL File No. 2009-0414-03E, and Certification of Compliance in OAL File No. 2009-0929-03C.

In June and July 2009, the SAB approved “inactive” status for a total of \$609.1 million of CSFP preliminary charter school apportionments (43 projects), thereby helping to protect the projects from having their preliminary charter school apportionments expire.

At its meeting on September 23, 2009 the SAB extended the sunset date for this regulation section from January 1, 2010 until January 1, 2011. The OAL approved the emergency regulations in OAL File No. 2009-1216-01E, and Certification of Compliance in OAL File No. 2010-0309-01C.

The SAB, at its December 15, 2010 meeting, adopted emergency regulatory amendments to the SFP Regulations to extend the sunset date for this section until “July 1, 2011.” The OAL approved the emergency regula-

tions in OAL File No. 2011–0329–03E, and Certification of Compliance in OAL File No. 2011–0610–01C.

The SAB, at its May 25, 2011 meeting, adopted a regulatory amendment to extend until July 1, 2012, the SAB’s authority to administer inactive preliminary charter school apportionments. Extending this authority will allow “inactive” status to continue for preliminary charter school apportionments during the State of California’s continuing fiscal crisis. This will help prevent CSFP preliminary apportionments from expiring and allow the SAB to reinstate them when State financing again becomes available for the projects.

A summary of the proposed regulatory action follows:

Proposed Re-adoption of Regulation Section 1859.166.2 authorizes the SAB to determine a State fiscal emergency or crisis exists for the purpose of finding Preliminary Charter School Apportionments under the CSFP to be “Inactive,” as defined in Section 1859.2. This finding suspends, as of December 17, 2008, the time period for an applicant to convert to a Final Charter School Apportionment. This period to convert is four years from the date of the Preliminary Charter School Apportionment plus a possible one-year extension, as set forth in Education Code Section 17078.25(a) and (b). The proposed re-adoption also authorizes the SAB to find that State bond funds are available for the project in order to end “inactive” status and reinstate the balance of the time period to convert to a Final Charter School Apportionment as it existed on December 17, 2008. This regulation section became inoperative on its own terms on July 1, 2011, and it is the SAB’s intention to re-adopt this regulation section and extend the terms of this regulation section until July 1, 2012.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts, or charter schools to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following deter-

minations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts and charter schools except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed re-adoption of the regulation section will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts and charter schools for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than September 5, 2011, at 5:00 p.m. The express terms of the proposed regulation as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulations
Coordinator

Mailing Address: Office of Public School
Construction
707 Third Street, Room 1-430
West Sacramento, CA 95605

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 376-5332

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 375-5939. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may re-adopt the regulation substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB re-adopts the regulation.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulation during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to re-adopt the regulation with modifications not sufficiently related to the original text, the modified text will not be re-adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.dgs.ca.gov/opsc> under "Resources," then click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

NOTICE OF PUBLIC HEARINGS OF THE OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and Labor Code Sections 148.7, the Occupational Safety and Health Appeals Board of the State of California has set the time and place for Public Hearings on proposed changes to its rules of practice and procedure found in Title, 8, California Code of Regulations, Division 1, Chapter 3.3, Articles 1, 3 and 4, Sections 350.1, 371, 371.1, 373, 374.2, and 376:

PUBLIC HEARINGS

On September 6, 2011 at 10:00 a.m.
Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, California

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings of the Occupational Safety and Health Appeals Board should contact the Disability Accommodation Coordinator at (916) 274-5751 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 that the Occupational Safety and Health Appeals Board, pursuant to the authority granted by Labor Code Section 148.7, and to implement Labor Code Sections 148.7, 148.8, 6600, and 6610, will consider the following proposed revisions to Title 8, Rules of Practice and Procedure, of the California Code of Regulations, as indicated below, at its Public Hearing on September 6, 2011.

TITLE 8: RULES OF PRACTICE AND PROCEDURE

Chapter 3.3, Subchapter 4, Articles 1, 3
and 4
Sections 350.1, 371, 371.1, 373, 374.2
and 376.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Appeals Board (Board) is charged with hearing and resolving appeals filed by employers from occupational safety and health citations issued by the Division of Occupational Safety and Health. California Labor Code Section 148.7 authorizes the Board to adopt rules of practice and procedure for the matters that fall within its jurisdiction. The Board has adopted regulations to govern the appeals process and the procedure for reconsidering decisions made on such appeals (Title 8, California Code of Regulations, Sections 345-397).

This rulemaking proposal would expand and clarify various existing provisions pertaining to appeals. It would also add regulatory language providing for expedited proceedings where abatement of an alleged violation is at issue and specified circumstances exist. These proposed modifications will have the effect of clarifying the requirements for the parties to appeals before the Board, and will allow the Board procedures to address a particularly critical class of appeals.

This proposed rulemaking action contains non-substantive editorial changes, reformatting of subsections, and grammatical revisions. While these non-substantive revisions are not all discussed in this Informative Digest, they are clearly indicated in the regulatory text in underline and strikeout format, a copy of which is attached to this Notice. In addition to these non-substantive revisions, the following measures are proposed:

Section 350.1, Authority of Administrative Law Judge

This regulation is amended to include holding a status conference as specifically within the powers of the Administrative Law Judge. Status conferences are currently held by Administrative Law Judges pursuant to their authority under this section to "take other action during the pendency of the proceeding to regulate the course of a prehearing, hearing, or settlement conference, that is deemed appropriate by the Administrative Law Judge to further the purposes of the California Occupational Safety and Health Act." The reason for the amendment is to allow the regulations to more closely reflect current Board practice.

Section 371, Prehearing Motions

The proposed changes correct typographical errors only.

Section 371.1, Motions Concerning Hearing Dates

This section addresses the Board's rules pertaining to motions filed by the parties to continue hearing dates set by the Board.

Subsection (b) is amended to create provision for parties to serve each other by fax, email, or personal service if an emergency arises, while specifying that the motion

to the Board may not be emailed. Also, technical, non-substantive changes are proposed to provide greater clarity and to correct typographical errors. The effect of these amendments is to clarify the Board's expectations and to provide the parties greater flexibility if an emergency arises.

Subsection (b)(2) is amended to specify that the facts supporting a motion for continuance must be submitted in a declaration signed under penalty of perjury. The effect of this amendment is to clarify the Board's expectations and to discourage inflated claims made to support the motion.

Subsection (b)(3) is amended to state that the Board will not rule on a motion for continuance unless the moving party provides the other parties' position on the motion or ten business days have passed, whichever comes first. This amendment will clarify the Board's practices in ruling on continuance motions.

Subsection (c) is amended to state that any opposition to the motion must be filed with the Board immediately and no later than 10 days from service of the motion instead of stating that it can be filed at any time prior to a ruling on the motion. This amendment will clarify the Board's expectations for continuance motions.

Subsection (d) is amended to state the Board's commitment to ruling promptly on continuance motions and to correct typographical errors. This amendment will clarify the Board's practices in ruling on continuance motions. Under this proposal, the content of existing subsection (d) has been incorporated, in large part, into the revised subsection (e). This amendment will organize the regulatory text effectively.

Subsection (e) is amended to incorporate language previously included in subsection (d) and to specify that continuance motions will each be considered on its own merits. The section states that continuances will be granted upon an affirmative showing of good cause and specifies factors that will be considered in determining whether good cause exists. Under this proposal, the language currently contained in subsection (e) is moved to revised subsection (f). These amendments will maintain the organization of the regulatory text and will clarify the Board's practices in ruling on continuance motions.

Subsection (f) is amended to incorporate the language previously included in subsection (e). The language previously stated in subsection (f) is moved to new subsection (g) in this proposal. These amendments will maintain the organization of the regulatory text.

Subsection (g) is added to incorporate the language previously stated in subsection (f) and to add that a previously denied motion for continuance may be renewed at hearing, and new information may be provided, if it was originally denied without prejudice. Previously, the regulation simply stated that a motion for continu-

ance, once denied, could not be renewed on the same grounds at hearing. These amendments will maintain the organization of the regulatory text and will provide party's greater flexibility to revisit a continuance motion under specified circumstances.

Section 373, Expedited Proceedings

This regulation currently allows the parties or the Board to move to expedite an appeal proceeding and states, in very general terms, that timeframes for aspects of the proceedings will be shortened to the extent possible if a proceeding is expedited.

Subsection (b) is added to specify that the Board will expedite an appeal on its own motion if it is aware that an alleged violation remains unabated, abatement is at issue, and the violation falls within one of the listed classifications. Subsection (c) states steps in the process that will occur when an appeal is expedited under this provision. These two new sections will notify the regulated public of circumstances under which the Board will expedite a proceeding and of the primary steps in the process.

Section 374.2, Status Conferences

This regulation is added to better articulate current practice. Currently, status conferences are held as needed under the authority of the Administrative Law Judge under Regulation 350.1. This new section identifies the issues addressed at a status conference, and provides for the use of sanctions by an Administrative Law Judge for a party's failure to appear at and participate in a status conference. These sanctions are the same as are currently contained in Regulation 374, Prehearing Conferences. In both current practice and in the proposed regulation, the issues addressed at a status conference are not identical to those of a prehearing conference. The matters suitable for a status conference are 1) the issues to be presented, 2) the witnesses to be called, 3) the status of discovery requests, 4) pending and contemplated motions, and 5) any other matters that may aid in expediting the hearing or otherwise disposing of the case. A status conference may be set by an Administrative Law Judge as needed to regulate the course of the proceeding.

Section 376, Time and Place of Hearing

Subsection (c) of this provision allows the Board to delay appeal proceedings when the Division of Occupational Safety and Health's Bureau of Investigations is reviewing an employer's conduct associated with an alleged violation to determine if a case should be referred to the district attorney for possible criminal charges to be brought against the employer. It also allows for such delay pending the determination by a prosecuting authority whether or not to file charges. This proposal amends the provision to state that the Board will delay the appeal proceedings for up to three years as opposed

to the two years currently provided for in the regulation. This amendment will conform the delay permitted to the statute of limitations for charging an employer with criminal conduct under the relevant statutes.

Subsection (d) states that the Board will set a hearing at a location as near as practicable to the place of employment where the violation is alleged to have occurred. This proposal would add factors to be considered when the Board is deciding the best location for the hearing. This amendment will provide guidance regarding the phrase “as near as practicable” without unduly limiting the Board’s discretion or its ability to determine a hearing’s location.

Subsection (e) is new and is added to specify factors the Board will consider when deciding how best to calendar hearings. This amendment will provide guidance regarding the Board’s practices when setting hearings without unduly limiting the Board’s discretion or its ability to set its calendar.

DOCUMENTS INCORPORATED BY REFERENCE

None.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Appeals Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers — state, local and private — will be required to comply with the proposed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of this proposal will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

The Board must determine that no reasonable alternative it considered or that has otherwise been identified

and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DOCUMENT AVAILABILITY

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Appeals Board's Office, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833, (916) 274-5751. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions and a description of any identified alternatives considered has been prepared and is available upon request from the Appeals Board's Sacramento Office.

The Occupational Safety and Health Appeals Board's rulemaking file on the proposed actions, including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Appeals Board's Sacramento Office.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Chief Counsel 15 days prior to the date on which the Appeals Board adopts the proposed changes.

Once the Final Statement of Reasons is prepared, it may be obtained by calling the telephone number listed above.

You can also access the Board's notice and the other materials associated with this proposal on the Appeals Board's website, the address for which is <http://www.dir.ca.gov/oshab>.

PUBLIC COMMENT

Notice is also given that any interested person may comment on this proposal in writing, or orally at the public hearing. It is required that written comments be submitted so that they are received no later than September 6, 2011, at 5:00 p.m.

The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on September 6, 2011, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided above or submitted by fax to (916) 274-5785 or e-mailed to oshab@dir.ca.gov. The Occupational Safety and Health Appeals

Board may thereafter adopt the above proposal substantially as set forth without further notice.

CONTACT PERSON

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Jeff Mojcher, Chief Counsel, or Michael Wimberly, Executive Officer, at (916) 274-5751.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

LOSS RATIO REGULATION FOR INDIVIDUAL HEALTH INSURANCE POLICIES

DATE: July 22, 2011 REGULATION FILE: REG-2011-00005

SUBJECT OF PROPOSED RULEMAKING

The California Department of Insurance ("CDI", "Department") proposes to amend and adopt the amendments to Title 10, California Code of Regulations, Chapter 5, Subchapter 2, Article 1.9, Section 2222.12 described below, after considering comments from the public.

On January 12, 2011, the Department submitted an emergency rulemaking action, CDI file number ER-2011-00001, OAL file number 2011-0112-01 E, to amend section 2222.12 of title 10 of the California Code of Regulations. This present rulemaking proceeding is a regular, noticed rulemaking action to make the emergency regulations permanent

The proposed amendment was prompted by the enactment of the federal Affordable Care Act, a series of health market reforms, and the Interim Final Rule, 45 Code of Federal Regulations Part 158, which describes the factors, scope, and method used in the calculation of loss ratios. The federal rules provide, among other things, that beginning January 1, 2011, health insurers offering coverage in the individual market must achieve at least an 80% loss ratio. Those insurers that do not meet this standard will be required to provide a refund the following calendar year. As a result of this proposed amendment to the California regulation, insurers in California will have to demonstrate both (1) compliance with the existing 70% lifetime anticipated loss ratio standard prescribed by section 2222.12, so that consumers are assured of receiving reasonable benefit

value for their premium dollars on a policy-form basis, as well as (2) compliance with the 80% federal standard on a market-segment basis at the time of the Department's rate review, so that consumers can have the benefit of the federal medical loss ratio from the outset of the rate, rather than having to wait from eight to twenty months for a premium refund.

PUBLIC HEARING — DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations as follows:

Date and Time Tuesday, September 13, 2011
11:00 a.m.

Location Department of Insurance
45 Fremont Street, 22nd Floor
Hearing Room
San Francisco, CA 94105

PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at **5:00 p.m. on September 13, 2011**. Please direct all written comments to the following contact person:

Bruce Hinze
Staff Counsel III
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, California 94105

(415) 538-4392
(415) 904-5896 (facsimile)
hinzeb@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed regulations should be addressed to the contact person listed above. In the event that contact person is unavailable, inquiries regarding the proposed action may be directed to the backup contact person:

Stesha Hodges
Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, California 95814

(916) 492-3544
(916) 324-1883 (facsimile)
HodgesS@insurance.ca.gov

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Commissioner, addressed to the contact person at the address listed above, **no later than 5:00 p.m. on September 13, 2011**. Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

Written comments transmitted by e-mail will be accepted only if they are sent to the following e-mail address: HinzeB@insurance.ca.gov. The Commissioner will also accept written comments submitted by facsimile only if they are sent to the attention of the contact person at the following **facsimile number: (415) 904-5896**. Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. **Comments sent by e-mail or facsimile are subject to the 5:00 p.m., September 13, 2011 deadline.**

AUTHORITY AND REFERENCE

The proposed amendment to Title 10, California Code of Regulations, Chapter 5, Subchapter 2, Article 1.9, Section 2222.12 will implement, interpret and make specific the provisions of Insurance Code sections 10293. Insurance Code section 10293 provides authority for this rulemaking.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Law

Insurance Code section 10293, originally enacted during the 1961 legislative session, requires, among other provisions, that the Insurance Commissioner withdraw approval of individual or mass-marketed policies of disability insurance "if after consideration of all relevant factors the commissioner finds that the benefits provided under the policy are unreasonable in relation to the premium charged."¹ The same Insurance Code section also requires that the Insurance Commis-

¹ Insurance Code section 10293(a)

sioner promulgate “such reasonable rules and regulations. . . as are necessary to establish the standard or standards by which the commissioner shall withdraw approval of any such policy.”² As a result, on November 30, 1962, the Insurance Commissioner ordered that a new Article 1.9, consisting of sections 2222.10 to 2222.19, be added to the California Administrative Code.³ This article adopted a 50% “loss ratio” as the means to determine whether the benefits provided by a policy were reasonable in relation to the premium charged. A “loss ratio” is a measure used to evaluate the reasonableness of the benefits provided by a hospital, medical or surgical policy. Here, the “loss ratio” is the ratio of incurred claims to earned premium. In 2006, section 2222.12 was amended to change the loss ratio standard to 70%, and to permit insurers to consider disease management expenses.

Policy Statement Overview

1) Federal Health Reform

The federal Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (Pub. L. 111–152) was enacted on March 30, 2010. Collectively, these two statutes are referred to as the Affordable Care Act (“ACA”). Among the health insurance market reforms of the ACA, section 2718 (42 USCS §300gg–18), entitled “Bringing Down the Cost of Health Care Coverage,” provides that, beginning January 1, 2011, health insurers offering coverage in the individual market must achieve at least an 80% loss ratio. Further, if the insurer does not meet the required minimum loss ratio, it must provide a refund the following calendar year. The Department of Health and Human Services subsequently issued an Interim Final Rule, 45 Code of Federal Regulations Part 158 (Dec. 1, 2010, with technical corrections issued Dec. 30, 2010) which described the factors, scope, and method used in the federal calculation. This Interim Final Rule provides that insurers must report their federal medical loss ratio outcome for a calendar year by June 1 of the following year (45 CFR § 158.110). Thus, for calendar year 2011, the report is not due until June 1, 2012, and premium rebates are not due until August 1, 2012 (45 CFR § 158.241).

² Insurance Code section 10293(a)

³ California Department of Insurance Ruling 127, file number RH–89, November 30, 1962, “In the Matter of the Proposed Adoption of Rules and Regulations of the Insurance Commissioner relating to Standards by which the Insurance Commissioner shall withdraw Approval of any Individual Medical, Hospital, or Surgical Policy the Benefits of which are Unreasonable in Relation to the Premium Charge.”

The loss ratio calculation method used in the existing California regulation uses a different calculation method than the federal loss ratio. The 70% minimum loss ratio in existing section 2222.12 is a lifetime anticipated loss ratio, which involves projections into the future based on actuarial assumptions regarding factors involved in the ratio, including medical cost inflation, future claims, durational effects, and other factors. The 70% minimum loss ratio is determined at the level of specific policy forms. In contrast, the federal 80% minimum loss ratio involves different factors, is retrospective in nature, and is determined based on an aggregation of the loss ratios for all of the insurer’s individual health insurance forms. Further, the federal 80% minimum loss ratio includes factors, such as premium tax and HIPAA Guaranteed Issue business costs, which are not included in the California 70% loss ratio calculation. This amendment to the regulation conforms the California regulation to the requirements of federal health reform, while preserving the consumer protections of the existing loss ratio standard.

2) Purchasers of individual hospital, medical, or surgical policies lack expertise and market power

One of the most significant factors facing purchasers of individual hospital, medical, or surgical insurance is the disparity in expertise and market power between the purchaser and the insurer. While large purchasers of group health insurance have expertise in judging the level of benefit, and market power in negotiating benefits, small groups and individuals lack such expertise and market power. In part as a result of this disparity, the market for individual insurance does not function at full efficiency. In addition, in part because of this disparity, loss ratios for individual health insurance policies are lower compared to the ratios seen in group health insurance.⁴

3) Purchasers of individual hospital, medical, or surgical policies bear an increasing economic burden

Consumers who purchase individual hospital, medical, or surgical insurance policies face a growing economic burden, as both premium costs and out-of-pocket expenses have significantly increased. This economic burden is consistent with larger trends in health care costs. In the past decades, health care spending in the United States has outpaced the general rate of infla-

⁴ See, “Health Insurance in California: Where Do Your Premium Dollars Go?” PowerPoint presentation by Department of Insurance staff at June 1, 2006 Investigatory Hearing Regarding Profitability of Health Insurance Products (file number IH05049314) and Prenotice Public Discussion on Proposed Regulation [Individual Disability Policy Loss Ratio Regulations] (file number RH06092236).

tion.⁵ Nationally, the amount spent per person on health care increased 74 percent between 1994 and 2004.⁶ In addition to the increase in health care costs, the nature of the expenses has changed over the past 20 years, shifting to areas for which the individual hospital, medical, or surgical insurance policyholder often must pay a significant portion of the expense. For example, between 1984 and 2004, the amounts paid for prescription drugs, as a percentage of national health expenditures, increased from 4.9% to 10.0%.⁷ From 2001 through 2004, the average annual growth rate in national health care expenditures was 8.4 percent.⁸ In the California individual hospital, medical, or surgical insurance market, premiums rose almost 40 percent between 1997 and 2002, in contrast to an approximately 12 percent rise in the prices of other goods and services, as measured by the Consumer Price Index, over the same period.⁹ Since section 2222.12 was last amended in 2006, the disparity between the rate of increase of health insurance premiums and the overall rate of inflation has become even more dramatic: while cumulative overall inflation between 2006 and 2010 was 12%, the cumulative rate of premium increases for individual and group insurance over the same five years was 48%, four times the rate of overall inflation.¹⁰ Moreover, in the individual market recent increases have been more extreme. In 2010, the Kaiser Family Foundation reported that the most recent premium increases imposed by insurers in the individual market averaged 20%.¹¹

4) Purchasers of individual hospital, medical, or surgical policies are a vulnerable population

While this environment of rising costs poses challenges for purchasers of individual hospital, medical, or surgical insurance, additional factors make these pur-

chasers particularly vulnerable.¹² First, the individual hospital, medical, or surgical insurance market is the last resort for many; California has a higher rate of persons without insurance and lower rates of employer-sponsored coverage than does the nation as a whole.¹³ In addition, the need for individual hospital, medical, or surgical insurance has been increasing due to corporate downsizing.¹⁴ Those who are not fortunate enough to receive insurance through their workplace and are not eligible for public programs must attempt to obtain coverage in the individual market. Once covered by individual insurance, many consumers rely on maintaining that coverage for years. In California, the individual insurance market is an important source of long-term hospital, medical, or surgical insurance coverage for a sizable fraction of those who purchase it.¹⁵

A second factor that confronts purchasers of individual hospital, medical, or surgical insurance policies is the fact that products in the individual market are difficult to qualify for because they are carefully underwritten to manage risk. A third factor is the rapidly increasing cost of individual insurance. High premiums and the low incomes of many of the potential purchasers of individual insurance make affordability a particular concern.¹⁶ The increasing expense of individual hospital, medical, or surgical insurance reduces affordability, which in turn reduces availability for consumers who might otherwise be forced to go without vital hospital, medical, or surgical insurance coverage. Also, inadequate benefits in individual insurance coverage can be a major source of underinsurance, which affects 13–20 percent of the privately insured.¹⁷ On average, coverage in the individual hospital, medical, or surgical insurance market is less complete than coverage in the group market.¹⁸ Thus, purchasers of individual hospital, medical, or surgical insurance are faced with rapidly increasing health care costs in general, as well as even more rapidly increasing premiums for individual cover-

⁵ As of 2004, the growth rate in national health expenditures was 7.9%, compared with an annual growth rate in the Consumer Price Index of 2.7 percent. Per-capita national health care expenditure in 2004 was 17.6 times the level in 1970, while consumer prices, as measured by the CPI were 4.9 times 1970 levels. *Snapshot: Health Care Costs 101*, 2006 edition, pp.1, 15, 16, California Health Care Foundation, www.chcf.org.

⁶ *Snapshot: Health Care Costs 101*, 2006 edition, p.4, California Health Care Foundation, www.chcf.org.

⁷ *Snapshot: Health Care Costs 101*, 2006 edition, p.6, California Health Care Foundation, www.chcf.org.

⁸ *Snapshot: Health Care Costs 101*, 2006 edition, p.14, California Health Care Foundation, www.chcf.org.

⁹ Buntin, *supra* at W3–456.

¹⁰ *California Health Care Almanac: California Health Plans and Insurers*, October 2010, California Health Care Foundation, www.chcf.org

¹¹ *Recent Premium Increases Imposed by Insurers Averaged 20% for People Who Buy Their Own Health Insurance, Kaiser Survey Finds Facing Such Increases, Some Enrollees Switched To Lower-Cost Coverage People With Pre-Existing Conditions Much More Likely To Report Problems*, Kaiser Family Foundation, <http://www.kff.org/kaiserpolls/posr062110nr.cfm?RenderForPrint=1>.

¹² *Snapshot: Health Care Costs 101*, 2006 edition, p.1, California Health Care Foundation, www.chcf.org.

¹³ Marquis, et al., *Consumer Decision Making in the Individual Health Insurance Market*, Health Affairs, W226, 227, May 2, 2006, www.healthaffairs.org.

¹⁴ Testimony of Mr. Roupen Berberian, Health Net Life Ins. Co., December 1, 2005 California Department of Insurance Investigatory Hearing Regarding Profitability of Health Insurance Companies, (file number IH05049314) RT 64:16–18.

¹⁵ Marquis, et al., *Consumer Decision Making in the Individual Health Insurance Market*, Health Affairs, W226, 228, May 2, 2006, www.healthaffairs.org.

¹⁶ Marquis, et al., *Consumer Decision Making in the Individual Health Insurance Market*, Health Affairs, W226, May 2, 2006, www.healthaffairs.org.

¹⁷ Buntin, et al., *Trends and Variability in Individual Insurance Products in California*, Health Affairs, W3–449, Sept. 23, 2003, www.healthaffairs.org.

¹⁸ Buntin, *supra* at W3–457

age. Because they have no realistic alternative to individual coverage, such persons are at risk of being priced out of the individual insurance market, and joining the large number of uninsured Californians.

5) Conclusion

The current 70% lifetime anticipated loss ratio standard, evaluated on a policy-form basis, protects California consumers by assuring that each policy form will return at least 70 cents of benefit for each premium dollar. The amendment reflected in this notice extends further protection to California consumers by conforming the California regulation to the requirements of federal health care reform while providing consumers with immediate access to the additional benefit of the federal 80% standard, on a market segment basis. This regulation applies the 80% standard to consumers' premium dollars from the outset, without the insured having to wait for up to twenty months for a premium refund. Under federal law, a consumer who pays a premium in excess of that justified under the federal loss ratio requirement would have to wait until August of the following year for a refund. This presents the consumer with an inflated premium for the entire year of coverage; for individuals and families in difficult economic circumstances, such a front-end excess premium can create a barrier to access to health coverage, making the coverage effectively unavailable. Applying both the California and Federal standards in a complementary fashion through this amendment achieves the mandate of Insurance Code section 10293, that benefits under a policy be reasonable in relation to the premium charged, while also removing a barrier to access to coverage, therefore making this vital coverage more available to Californians.

Effect of Proposed Action

As a result of the proposed action, insurers will demonstrate both (1) compliance with the existing 70% lifetime anticipated loss ratio standard, so that consumers are assured of receiving reasonable benefit value for their premium dollars on a policy-form basis, as well as (2) compliance with the 80% federal standard on a market-segment basis at the time of the Department's rate review, so that consumers can have the benefit of the federal medical loss ratio from the outset of the rate, rather than having to wait from eight to twenty months for a premium refund.

Comparable Federal Law

As discussed above, there are existing federal statutes and a regulation that are comparable to the proposed regulation, specifically 42 USCS §300gg-18 and 45 C.F.R. §§ 158.220-158.232, 75 Fed. Reg. 74927-74928, (December 1, 2010).

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandates on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency and no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code. There are no nondiscretionary costs or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that the adoption of the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the proposed regulations may have on the creation or elimination of jobs within the State of California; to assess the creation of new businesses or the elimination of existing businesses within the State of California; to assess the expansion of businesses currently doing business within the State of California. The Commissioner finds that this proposed regulation will not affect the creation or elimination of jobs within California, nor will it affect the creation of new businesses, nor the elimination or expansion of existing businesses within California.

The Commissioner also invites interested parties to comment on these issues.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the State that the proposed regulations apply to businesses.

IMPACT ON SMALL BUSINESS

The Commissioner has determined the proposed action will not affect small business. This proposed regulation only affects insurance companies. Per Government Code section 11342.610(b)(2), insurance companies are, by definition, not small businesses.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner has determined that no reasonable alternative considered by the Commissioner or that has been otherwise identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

The Commissioner invites public comment on alternatives to the regulations.

DEADLINE FOR WRITTEN COMMENTS

All written comments, whether submitted at the hearing or by U.S. Postal Service or any other delivery service, or by e-mail or facsimile, must be received by the Commissioner, c/o the contact person at the address listed above, **no later than 5:00 p.m. on September 13, 2011.**

All persons are invited to submit statements, arguments, or contentions relating to the proposed regulations by submitting them in writing to the contact person **no later than 5:00 p.m. on September 13, 2011.** In the alternative, statements, arguments, or contentions may be presented orally at the public hearing.

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to

notify the contact person in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the CCR in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address to inquire about the appropriate procedures.

Office of the Public Advisor
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for additional information.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Commissioner has prepared an Initial Statement of Reasons ("ISOR") that sets forth the reasons for the proposed regulations. Upon request, the ISOR and the text of the proposed regulations will be made available for inspection and copying. Requests for the ISOR and the text of the proposed regulations should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the ISOR, and any supplemental information, is contained in the Rulemaking File: REG-2011-00005 and is available for inspection and copying by prior appointment at 45 Fremont Street, 23rd Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

FINAL STATEMENT OF REASONS

After it has been prepared, and upon request, the Final Statement of Reasons ("FSOR") will be made available for inspection and copying. Requests for the FSOR should be directed to the contact person listed above.

AUTOMATIC MAILING

A copy of the proposed regulations and this Notice (including the Informative Digest, which contains the

general substance of the proposed regulations) will be sent to all persons who have previously filed a request to receive notice of proposed rulemaking with the Commissioner.

WEBSITE POSTINGS

Documents concerning these proposed regulations are available on the CDI's website. To access them, go to <http://www.insurance.ca.gov>. Find at the right-hand side of the page the heading 'QUICK LINKS.' The third item in this column under this heading is 'For Insurers'; on the drop-down menu for this item, select 'REGULATIONS.' When the 'INSURERS: REGULATIONS AND GUIDANCE' screen appears, click the fourth item in the list of bulleted items near the top of the page: 'Proposed Regulations.' The 'INSURERS: PROPOSED REGULATIONS' screen will be displayed. Select the only available link: 'Search for Proposed Regulations.' Then, when the 'PROPOSED REGULATIONS' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To browse, click on the 'Currently Proposed Regulations' link. A list of the names of regulations for which documents are posted will appear. Find in the list the link to 'Loss Ratio Regulation For Individual Health Insurance Policies' and click it. Links to the documents associated with these regulations will then be displayed.

To search, enter "REG-2011-00005" (the CDI's regulation file number for these regulations) in the search field. Alternatively, search by keyword ("loss ratio," for example) Then, click on the 'Submit' button to display links to the various filing documents.

MODIFIED LANGUAGE

If the Commissioner adopts regulations which differ from those which have originally been made available but are sufficiently related to the original proposed regulations, the amended regulations will be made available to the public for at least 15 days prior to the date of adoption of the amended regulations. Interested persons should request a copy of the amended regulations from the contact person listed above.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION

DATE: July 11, 2011 **REGULATION FILE:** REG-2007-00002

SUBJECT OF PROPOSED RULEMAKING

The California Department of Insurance ("CDI") proposes to adopt the regulations described below, after considering comments from the public.

Title 10, Chapter 5, Subchapter 3, Article 6.2, "Reporting and Filing Premium Taxes." The CDI is considering adopting 10 California Code of Regulations sections 2327, 2327.1, and 2327.2 to provide a framework for an admitted insurer to transition from filing its return for premium taxes on an accrual basis to a cash basis.

These regulations would be added to existing regulations based on the authority set forth in Revenue & Taxation Code section 13170 and the references set forth in Article XIII, Section 28 of the California Supreme Court, Revenue and Taxation Code sections 12001, 12003, 12201, 12221, 12231, 12232, 12302, 12303, 12304, 12421, and 12422, and Insurance Code Sections 19, 20, 21, 24, 28, 47, 736, 1530, and 12740 and State Board of Equalization Memorandum Opinion in California Automobile Insurance Company (December 12, 2006).

The proposed regulations are intended to facilitate an admitted carrier's transition from filing and paying premium taxes on an accrual basis to a cash basis as provided in Article XIII, Section 28 of the California Constitution and Revenue and Taxation Code section 12221.

PUBLIC HEARING — DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations as follows:

Date and Time **September 8, 2011**
11:00 a.m.

Location **Department of Insurance**
45 Fremont Street, 22nd Floor
Hearing Room
San Francisco, CA 94105

PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at **5:00 p.m. on September 8, 2011**. Please direct all written comments to the following contact person:

Laszlo Komjathy, Jr.
Staff Counsel IV
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, California 94105

(415) 538-4413
(415) 904-5896 (facsimile)
Laszlo.Komjathy@insurance.ca.gov

George Teekell
Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, California 94105

(415) 538-4390
(415) 904-5490 (facsimile)
George.Teekell@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed regulations should be addressed to the contact person listed above.

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Commissioner, addressed to the contact person at the address listed above, **no later than 5:00 p.m. on September 8, 2011**. Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

Written comments transmitted by e-mail will be accepted only if they are sent to the following e-mail address: Laszlo.Komjathy@insurance.ca.gov. The Commissioner will also accept written comments submitted by facsimile only if they are sent to the attention of the contact person at the following **facsimile number: (415) 904-5896**. Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. **Comments sent by e-mail or facsimile are subject to the 5:00 p.m., September 8, 2011 deadline.**

AUTHORITY AND REFERENCE

The proposed regulations Title 10, Chapter 5, Subchapter 3, Article 6.2, "Reporting and Filing Premium Taxes" will implement State Board of Equalization Memorandum Opinion in *California Automobile Insurance Company* (December 12, 2006) and its interpretation of Revenue and Taxation Code section 12221, and

the California Constitution Article XIII, Section 28, and the references set forth in Revenue Code and Taxation sections 12001, 12003, 12201, 12221, 12231, 12232, 12302, 12303, 12304, 12421, and 12422, and Insurance Code Sections 19, 20, 21, 24, 28, 47, 736, 1530, and 12740.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

An annual tax on premiums is imposed on each insurer and surplus line broker doing business in this State. With respect to insurers, the basis of the annual tax is the amount of gross premiums, less return premiums, received in such year by such insurer other than premiums received for reinsurance and for ocean marine insurance.

The annual tax on premiums is required to be paid based on premiums received. Historically, the California Department of Insurance interpreted the statute to require that insurers report and file premium taxes based on premiums written pursuant to NAIC Annual Statement Schedule T rather than on premiums received or cash basis. Relying on the California Department of Insurance's mandates, many insurers set up their accounting and reporting systems to comport with California Department of Insurance policy on reporting and paying premium taxes.

The State Board of Equalization in a Memorandum Opinion adopted on December 12, 2006 in *Matter of the Petitions for Redetermination Under the Tax on Insurers Law of California Automobile Insurance Company* held that an insurer must pay taxes on premiums received and not on premiums written. The payment of taxes by an insurer on premiums written rather than premiums received results in an advance payment of taxes due. Because insurers have relied on the directives of the California Department of Insurance, the State Board of Equalization concluded that it would be unfair and inequitable to mandate that all insurers immediately revise their accounting and reporting systems to report and pay taxes on premiums received. To avoid this inequitable result, an insurer may elect to continue reporting its premium taxes to the California Department of Insurance on an accrual basis so long as the taxes paid on an accrual basis are not less than the amount that would be due if reported pursuant to the requirements of Revenue and Taxation Code Section 12221.

The Insurance Commissioner is required to examine the tax return and determine the correct amount of tax to be paid by insurers, home protection companies and surplus line brokers. If the Commissioner determines that the amount of tax disclosed by the insurer's tax return and assessed by the State Board of Equalization is less than the amount of tax disclosed by his or her ex-

amination, he or she shall propose in writing to the State Board of Equalization a deficiency assessment for the difference.

Pursuant to California Revenue and Taxation Code Section 13170, these regulations relate to the administration and enforcement of insurance taxation by the Insurance Commissioner of the State of California.

The California Department of Insurance intends to implement the proposed regulations to assist admitted insurers in transitioning from filing and paying premium taxes on an accrual basis to a cash basis. These regulations meet that purpose.

Proposed regulations Title 10, Chapter 5, Subchapter 3, Article 6.2, "Reporting and Filing Premium Taxes"

Existing law, Revenue & Taxation Code section 13170 provides that the Insurance Commissioner ("Commissioner") may prescribe, adopt, and enforce rules and regulations related to the administration and enforcement of the premium tax statutes as granted to the Insurance Commissioner by the legislature in overseeing the filing and collection of premium taxes as provided by California Constitution Article XIII, Section 28 and Revenue & Taxation Code section 12221.

Finally, the proposed regulations would also provide for an effective date and for exemptions.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandates on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency and no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code. There are no nondiscretionary costs or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that the adoption of the proposed regulations will not

have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the proposed regulations may have on the creation or elimination of jobs within the State of California; to assess the creation of new businesses or the elimination of existing businesses within the State of California; to assess the expansion of businesses currently doing business within the State of California.

The Commissioner also invites interested parties to comment on these issues.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the State that the proposed regulations apply to businesses.

IMPACT ON SMALL BUSINESS

The Commissioner has determined the proposed action will not affect small business since the regulations only apply to the payment of premium taxes by insurers doing business in California and pursuant to Gov. Code § 11342.61(b)(2) an insurer by definition is not a small business.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has been otherwise identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burden-

some to affected private persons than the proposed regulations.

The Commissioner invites public comment on alternatives to the regulations.

DEADLINE FOR WRITTEN COMMENTS

All written comments, whether submitted at the hearing or by U.S. Postal Service or any other delivery service, or by e-mail or facsimile, must be received by the Commissioner, do the contact person at the address listed above, **no later than 5:00 p.m. on September 8, 2011.**

All persons are invited to submit statements, arguments, or contentions relating to the proposed regulations by submitting them in writing to the contact person **no later than 5:00 p.m. on September 8, 2011.** In the alternative, statements, arguments, or contentions may be presented orally at the public hearing.

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the CCR in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address to inquire about the appropriate procedures.

Office of the Public Advisor
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for additional information.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Commissioner has prepared an Initial Statement of Reasons ("ISOR") that sets forth the reasons for the

proposed regulations. Upon request, the ISOR and the text of the proposed regulations will be made available for inspection and copying. Requests for the ISOR and the text of the proposed regulations should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the ISOR, and any supplemental information, is contained in the Rulemaking File: REG-2007-00002 and is available for inspection and copying by prior appointment at 45 Fremont Street, 23rd Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

Final Statement of Reasons

After it has been prepared, and upon request, the Final Statement of Reasons ("FSOR") will be made available for inspection and copying. Requests for the FSOR should be directed to the contact person listed above.

AUTOMATIC MAILING

A copy of the proposed regulations and this Notice (including the Informative Digest, which contains the general substance of the proposed regulations) will be sent to all persons who have previously filed a request to receive notice of proposed rulemaking with the Commissioner.

WEBSITE POSTINGS

Documents concerning these proposed regulations are available on the CDI's website. To access them, go to <http://www.insurance.ca.gov>. Find at the right-hand side of the page the heading 'QUICK LINKS.' The third item in this column under this heading is 'For Insurers'; on the drop-down menu for this item, select 'Legal Information.' When the 'INSURERS: LEGAL INFORMATION' screen appears, click the third item in the list of bulleted items near the top of the page: 'Proposed Regulations.' The 'INSURERS: PROPOSED REGULATIONS' screen will be displayed. Select the only available link: 'Search for Proposed Regulations.' Then, when the 'PROPOSED REGULATIONS' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To browse, click on the 'Currently Proposed Regulations' link. A list of the names of regulations for which documents are posted will appear. Find in the list the link to 'Section 2340 Reporting and Filing Premium Taxes' and click it. Links to the documents associated with these regulations will then be displayed.

To search, enter “REG–2007–00002” (the CDI’s regulation file number for these regulations) in the search field. Alternatively, search by keyword (“reporting and filing premium taxes,” for example). Then, click on the ‘Submit’ button to display links to the various filing documents.

MODIFIED LANGUAGE

If the Commissioner adopts regulations which differ from those which have originally been made available but are sufficiently related to the original proposed regulations, the amended regulations will be made available to the public for at least 15 days prior to the date of adoption of the amended regulations. Interested persons should request a copy of the amended regulations from the contact person listed above.

TITLE 13. CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

AMEND TITLE 13, CALIFORNIA CODE OF REGULATIONS
DIVISION 2, CHAPTER 6, ARTICLE 3, SECTIONS 1160.3
AND 1160.4

MOTOR CARRIER SAFETY FARM LABOR VEHICLE PASSENGER SEATING (CHP–R–10–02)

California Vehicle Code (CVC) Section 2400 authorizes the Commissioner of the California Highway Patrol (CHP) to enforce laws regulating the safe operation of motor vehicles. Section 2402 CVC authorizes the Commissioner to make and enforce regulations as necessary to carry out the duties of the CHP. Division 13 (commencing with 29000 CVC), Chapter 5, Article 2 involving vehicles transporting workers (commencing with Section 31401 CVC) authorizes the CHP to adopt reasonable rules and regulations which are designed to promote the safe operation of farm labor vehicles (FLV), as defined in Section 322 CVC. The regulations referenced are contained in Title 13, California Code of Regulations (13 CCR).

Pursuant to Section 31406 CVC, the CHP is required to enact and codify the intent of Assembly Bill 602, Chapter 308, statutes of 2000. Current law requires all farm labor vehicles transporting farm workers to have passenger seating and seat assemblies meeting the Federal Motor Vehicle Safety Standards (FMVSS) Part 571.207, and current law prohibits any modifications unless it meets FMVSS Part 571.207. Current 13 CCR

regulations conflict with Section 31406 CVC, with language allowing for retrofitting of passenger seating, construction of seating assemblies and seat mounting hardware in farm labor vehicles without requiring testing or certification.

Additionally, CHP provides additional protection and enforcement of laws and regulations through the FLV certification program. Through the effort to ensure compliance and safety, minor terminology and mechanical installation issues were recognized and required addressing. This rulemaking adopts changes for the passenger seating compliance with statute criteria, including minor terminology amendments for emergency exits, and amends language addressing aftermarket seat belt anchoring and mounting placement.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CHP proposes to amend Title 13 CCR, Division 2, Chapter 6.5 which contains the CHP Motor Carrier Safety regulations, Article 8, Sections 1268 and 1270.3, containing regulations for farm labor vehicles and required equipment installation.

This rulemaking will amend current language referencing a “farm labor truck” in 13 CCR Section 1268, Emergency Exits, to be compliant with Article 8 language referencing “farm labor vehicles” (FLV).

This rulemaking will amend language in 13 CCR 1270.3(a), Farm Labor Vehicle Passenger Seating. The amendment will clarify language addressing FLV passenger seating inspections which meet the installation and construction criteria set forth in Section 31406 CVC. Section 31406 CVC was enacted January 1, 2001, and became operative March 31, 2002, superseding FLV seating and seat mounting regulations in 13 CCR Section 1270.3(a).

This rulemaking will amend current language in 13 CCR 1270.3(b), Seatbelt Installation, clarifying and amending language addressing the anchorage and mounting placement criteria of aftermarket seat belt assembly installations into an FLV. The adoption of these regulation amendments are necessary to outline and clarify requirements associated with the safe transportation of farm workers in an FLV.

PUBLIC COMMENTS

Any interested person may submit written comments on these proposed actions via facsimile to (916) 322–3154, by email to cvsregs@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
ATTN: Sergeant Ken Roberts
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments must be received on or before 4:45 p.m., September 5, 2011.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), not later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 322-3154 or by calling the CHP, CVS, at (916) 843-3400. Facsimile requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, CVS, 601 North Seventh Street, Sacramento, CA 95811. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our website at www.chp.ca.gov/regulations. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Officer Rob Sanchez, or Sergeant Ken Roberts, CHP, CVS, at (916) 843-3400. Inquiries regarding the substance of the proposed regulations should also be directed to Officer Sanchez or Sergeant Roberts.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or non-substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency, school district, or state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur when in reasonable compliance with the proposed action. However, the regulated community is encouraged to respond during the public comment period of this regulatory process if significant impacts are identified.

EFFECT ON SMALL BUSINESSES

The CHP has not identified any significant impact on small business. This does not represent an additional mandate on motor carriers, but simply provides a clarification of FLV passenger seating and equipment requirements. This is not to say a motor carrier who chooses to operate under the provisions of this regulatory process will not incur certain administrative costs; the fact is a motor carrier who elects to use these provisions, would voluntarily subject themselves to the administrative costs associated with certain document preparation and regulatory compliance otherwise required or required by this rulemaking. However, an

FLV contractor currently transporting farm workers in compliance with all applicable statutes and regulations, including but not limited to passenger seating, and equipment safety requirements, will be completely unaffected by this proposal. Should the motor carrier industry identify any costs not identified by this rulemaking, the CHP encourages input on this matter through the comment process.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to California Vehicle Code Sections 322, 2402, 31401, 31406, and 34501.

REFERENCE

This action implements, interprets, or makes specific California Vehicle Code Section 31406.

TITLE 13. NEW MOTOR VEHICLE BOARD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California New Motor Vehicle Board ("Board"), pursuant to the authority vested in it by Vehicle Code section 3050(a), proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend sections 553.20, 553.50, 553.70, and 553.72 and add section 553.30 of Title 13 of the California Code of Regulations pertaining to the annual fee collection.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the Board considered and adopted the proposed regulations at a noticed meeting held on December 3, 2010. Section 553.20 was revised by the staff due to the proposed reinstatement of the annual Board fee to \$.45 per vehicle with a minimum of \$300.00 for manufacturers and distributors. To reflect this reinstatement, the revised text for Section 553.20 was considered and adopted by the Board at a noticed meeting on February 4, 2011. Ten days prior to the meetings, a detailed agenda including the consideration of the proposed text of the regulations was mailed to the Board's Public Mailing List and Electronic Public Mailing List, a list of approximately 90–100 individuals, entities and governmental agencies who have requested notification by the Board of pending Board matters, and the 37–38 California New Car Dealers Association Directors. The agendas were also posted on the Board's website. No comments by the public were received at the December 3, 2010, or February 4, 2011, General Meetings, and no further public discussions were held prior to publication of the notice.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a public hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any person interested, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 323–1632 or by e-mail at rparker@nmvb.ca.gov or nmvb@nmvb.ca.gov. The written comment period closes at 5:00 p.m. on Tuesday, September 6, 2011. The Board will consider only comments received at the Board's offices by that time. Submit comments to:

Robin P. Parker, Senior Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323–1536 direct line
(916) 445–1888 main line
(916) 323–1632 fax
rparker@nmvb.ca.gov

AUTHORITY AND REFERENCE

Vehicle Code section 3050(a) authorizes the Board to adopt the proposed regulations. The proposed regulations implement, interpret, and make specific Business and Professions Code section 472.5, Vehicle Code sections 285, 331.1, 372, and 3050.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 3050, subdivision (a) authorizes the Board to adopt rules and regulations governing such matters as are specifically committed to it.

The adopted mission of the Board is to: “. . .enhance relations between dealers and manufacturers throughout the State by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner. The adopted vision statement provides that the Board safeguard for its “constituency, a fair, expeditious and efficient forum for resolving new motor vehicle industry disputes, which ultimately improves relations and reduces the need for costly litigation and develop methods that further improve the delivery of Board services in a timely and cost-effective manner. . .”

The Board proposes to amend Section 553.20 to allow the Board to issue fee collection invoices via e-mail or regular mail in lieu of certified mail for its Annual Board Fee collection. Also, consistent with Section 553 which is also being amended in a separate rulemaking packet, the proposed amendments reiterate that the minimum fee to be paid by each manufacturer or distributor shall not be less than \$300.00.

The Board proposes to add Section 553.30 to allow the Board to consider the failure of a manufacturer or distributor to comply with the provisions pertaining to the Board fee collection to be good cause pursuant to Vehicle Code section 3050(c). This is consistent with Section 553.75 pertaining to the Department of Consumer Affairs Arbitration Certification Program (“ACP”) fee collection.

The Board proposes to amend Section 553.50 to change an inaccurate reference to the Business and Professions Code; the proper reference should be Section 472.5(e) not 472(a).

The Board proposes to amend Section 553.70 to allow the Board to issue fee collection invoices via e-mail or regular mail in lieu of certified mail for its ACP fee collection. Also, the proposed regulation reiterates that the definition of “new motor vehicle” for purposes of this fee collection is contained in Business and Professions Code section 472.5(e). Section 472.5(e) provides as follows: “. . . ‘Motor vehicle’ means a new passenger or commercial motor vehicle of a kind that is re-

quired to be registered under the Vehicle Code, but the term does not include a motorcycle, a motor home, or any vehicle whose gross weight exceeds 10,000 pounds.”

The Board proposes to amend Section 553.72 to correct an inaccurate reference to the Board’s zip code; the proper reference is “95811” not “95814”.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) Create or eliminate jobs within California.
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination:

The Board has determined that the proposed regulations will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulation, are legally required to enforce the regulation, or derive a benefit from or incur an obligation from the enforcement of the regulation. The proposed regulations merely clarify the Board’s fee collection process for its own fees and those of the Department of Consumer Affairs Arbitration Certification Program.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has

otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Parker at the following address:

Robin P. Parker, Senior Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 323–1536 direct line
(916) 445–1888 main line
(916) 323–1632 fax
rparker@nmvb.ca.gov

The back–up contact person for these inquiries is:

Dana F. Winterrowd, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811
(916) 327–3129 direct line
(916) 445–1888 main line
(916) 323–1632 fax
dwinterrowd@nmvb.ca.gov

AVAILABILITY OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and all the information upon which the proposal is based. Copies may be obtained by contacting Ms. Parker, the contact person, or Mr. Winterrowd, the back–up contact person.

AVAILABILITY OF CHANGES OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations

substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for copies of any modified regulation should be addressed to the Board contact person or back–up contact person at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Parker or Mr. Winterrowd at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout font can be accessed through the Board’s website at www.nmvb.ca.gov.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

[Published July 22, 2011]

NOTICE OF PROPOSED RULEMAKING

Recirculation and Review of Plan by Director, 2011

Title 14 of the California Code of Regulations (14 CCR):

The Board of Forestry and Fire Protection (Board) proposes to amend and adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend

§ 895.1 Definitions

§ 898.1 Review of Plan by Director

§ 1037.3 Agency and Public Review

§ 1090.17 Agency and Public Review for the NTMP

§ 1092.18 Agency and Public Review for the PTHP

PUBLIC HEARING

The Board will hold a public hearing starting at 8:00 a.m., on Wednesday, September 14, 2011, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code section 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m., Tuesday September 6, 2011. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: George Gentry
Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 4551, 4551.5 and 21082, Public Resources Code. Reference: Sections 4511, 4512, 4513, 4521.3, 4551, 4551.5, 4552, 4553, 4554, 4554.5, 4581, 4582 and 21080.5, Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulation adds the definition of “Significant New Information” to the Forest Practice Rules to improve consistency with California Environmental Quality Act requirements. It also removes from 14 CCR § 898.1 the review procedure for Significant New Information, and places it in Sections 1037.3 (THPs), 1090.17 (NTMPs), and 1092.18 (PTHPs) so that all review procedures for each harvesting document are in one location, rather than separate ones.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None are known.
- Potential cost impact on private persons or directly affected businesses: The Board is not aware of any potential cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on small business: None.
- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.

- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: George Gentry
Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Gentry is not available, Mr. Eric Huff, Assistant Executive Officer, at the above address and phone (916) 653-8007.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action, using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKE-THROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

NOTICE OF PROPOSED RULEMAKING

Title 14: Natural Resources
Division 7: Department of Resources,
Recycling and Recovery
Chapter 11: Product Stewardship
Article 1: Product Stewardship for Carpets
Sections: 18940-18948

PROPOSED REGULATORY ACTION

The California Department of Resources Recycling and Recovery (Department) proposes to amend California Code of Regulations, Title 14, Division 7, Chapter 11, Article 1.0, commencing with section 18940. The proposed regulation is intended to clarify processes for implementing the new Product Stewardship of Carpet Act (Chapter 681, Statutes of 2010 [Perez, AB 2398]).

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation to the Department. **The written comment period for this rulemaking closes at 5:00 p.m. on September 5, 2011.** The Department will also accept written comments during the public hearing described below. Please submit your written comments to:

Fareed Ferhut
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
FAX: (916) 319-7313
e-mail: carpet@calrecycle.ca.gov.

PUBLIC HEARING

A public hearing to receive public comments has been scheduled for **September 8, 2011**. The hearing will be held at the:

Joe Serna Jr., Cal EPA Building
Byron Sher Auditorium
1001 I Street, 2nd Floor
Sacramento, CA 95814

The hearing will begin at **10:00 a.m. on September 8, 2011**, and will conclude after all testimony is given. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact carpet@calrecycle.ca.gov.

INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) §40000 et seq., gives the Department authority to provide for the

protection of public health, safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC §40502 requires the Department to adopt rules and regulations to implement the Act.

The proposed new regulation covers CalRecycle's responsibilities for implementing the new carpet stewardship statute (Chapter 681, Statutes of 2010 (Perez, AB 2398)). This rulemaking provides clarity and clean-up to the existing law and has sections on the following topics: definitions; submittal instructions; criteria for stewardship plan approval; criteria for acceptance of annual reports; establishment of a progressive enforcement approach; records retention; proprietary, confidential or trade secret information; and service payments to the Department.

More specifically, the subject regulation covers:

1. Definitions: administrative fee, assessment, aggregate assessment, carpet as alternative fuel, diversion, indoor-outdoor carpet, reporting period, rug, significant or materials change, synthetic turf
2. Standard outline to use for submitting plan and reports that includes the following topics:
 - a. Contact Information
 - b. Performance Goals and Activities
 - c. Solid Waste Management Hierarchy
 - d. Collection System
 - e. Market Development
 - f. Financing Mechanism
 - g. Education and Outreach
 - h. Program Performance Measurement
 - i. Stakeholder Consultation
 - j. Audits

Staff have met with numerous stakeholders, participated in the national Carpet MOU process, and conducted a public workshop on February 22, 2011 to share informal draft regulatory text. Approximately 65 people participated in the workshop either in-person or through the webinar. Comments from the public were incorporated into the "Proposed Product Stewardship for Carpet Regulation".

POLICY STATEMENT OVERVIEW

To implement Assembly Bill 2398 of 2010, the Department has responsibility to approve or disapprove of carpet stewardship plans submitted by manufacturers or their designated product stewardship organization, review annual reports to verify that the objectives of the plan are being met, and provide oversight and enforcement to ensure a level playing field among carpet manufacturers. For manufacturers to be in compliance,

they must have an approved plan and demonstrate achievement of continuous and meaningful improvement in the rates of recycling and other goals included in a stewardship plan. Enforcement is addressed through civil penalties for non-compliance, and additional accountability is provided via a public, transparent process that allows all stakeholders and the public to evaluate progress. Additionally, carpet manufacturers and/or stewardship organization(s) shall pay CalRecycle an administrative fee to cover the cost of its service that may not exceed five percent of the aggregate assessment collected.

PLAIN ENGLISH REQUIREMENTS

Department staff prepared the proposed regulation pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulation is considered non-technical and is written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

Public Resources Code Sections 40502 and 42970 through 42977.1, and Government Code Section 6253 provide authority for this regulation. The purpose of the proposed actions is to implement, interpret, and make specific the law related to carpet stewardship. The following is a list of references cited in this proposed regulation: Public Resources Code: 40062, 40127, 40180, 40191, 40192, 40201, 41780, 42323, 42970 through 42978 and 42981; California Code of Regulations, Title 5, Section 19812; and Government Code sections 6250, 11500, and 11506.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS

Department staff has determined that the proposed regulation does not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code §§17500 through 17630; 4) other non-discretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

FINDINGS ON NECESSITY OF REPORTS

Department staff found that the requirement for specific reports is necessary for the health, safety and welfare of the people of the state because it will help to ensure that the law applies equally to covered entities.

EFFECT ON HOUSING COSTS

Department staff made a determination that the proposed regulation will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

Department staff made an initial determination that, although the proposed regulation could affect approximately 3,000 businesses in California, it would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed regulation clarifies existing law and imposes no new requirements that would result in adverse cost impacts. The types of businesses affected include carpet manufacturers, distributors, wholesalers and retailers.

EFFECT ON SMALL BUSINESSES

Department staff made an initial determination that, although the proposed regulation could affect approximately 2,500 small businesses (those with under 100 employees), it will not have a significant statewide adverse economic impact, including the ability of California businesses to compete with businesses in other states because the proposed regulation clarifies existing law and imposes no new requirements that would result in adverse cost impacts.

EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA

Department staff determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would neces-

sarily incur in reasonable compliance with the proposed action. Department staff has determined that the adoption of the proposed regulation will not have a cost impact on private persons or businesses, because the impacts of the proposed regulation already exist in current law and regulation. The proposed regulation clarifies existing law and imposes no new adverse impacts.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Fareed Ferhut
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
Phone: (916) 341-6482
E-mail: carpet@calrecycle.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Kathy Frevert
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
Phone: (916) 341-6476
E-mail: carpet@calrecycle.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file, and all information that provides the basis for the proposed regulation, available for inspection and copying

throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Fareed Ferhut at the address or phone number listed above. For more timely access to the proposed text of the regulation, and in the interest of waste prevention, interested parties are encouraged to access the Department's Internet webpage at <http://www.calrecycle.ca.gov/Laws/Rulemaking/Carpet/default.htm>. Additionally, the Final Statement of Reasons will be available at the above-listed Internet address or you may call the contact persons named above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the Department adopts the regulation as revised. Requests for the modified text should be made to the contact person named. The Department will transmit any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; and all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.

TITLE 14. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

NOTICE OF PROPOSED RULEMAKING

Title 14: Natural Resources
Division 7: Department of Resources Recycling
and Recovery
Chapter 11: Product Stewardship
Article 2: Architectural Paint Recovery
Program
Sections: 18940-18948

PROPOSED REGULATORY ACTION

The California Department of Resources Recycling and Recovery (Department) proposes to amend

California Code of Regulations, Title 14, Division 7, Chapter 11, Article 2.0, commencing with section 18950. The proposed regulation is intended to clarify processes for implementing the new Architectural Paint Recovery Program (Chapter X, Statutes of 2010 [[Huffman, AB 1343](#)]).

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation to the Department. **The written comment period for this rulemaking closes at 4:00 p.m. on September 5, 2011.** The Department will also accept written comments during the public hearing described below. Please submit your written comments to:

Cynthia Dunn
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
FAX: (916) 319-7495
e-mail: paint@calrecycle.ca.gov

PUBLIC HEARING

A public hearing to receive public comments has been scheduled for September 8, 2011. The hearing will be held at the:

Joe Serna Jr., Cal EPA Building
Byron Sher Auditorium
1001 I Street, 2nd Floor
Sacramento, CA 95814

The hearing will begin at **1:30 p.m. on September 8, 2011**, and will conclude after all testimony is given. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact paint@calrecycle.ca.gov.

INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) §40000 et seq., gives the Department authority to provide for the protection of public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC §40502 requires

the Department to adopt rules and regulations to implement the Act.

The proposed new regulation covers CalRecycle's responsibilities for implementing the new architectural paint stewardship statute ([Chapter X, Statutes of 2010 \[Huffman, AB 1343\]](#)). This rulemaking provides clarity to the existing law and has sections on the following topics: definitions; submittal instructions; criteria for stewardship plan approval; criteria for acceptance of annual reports; establishment of a progressive enforcement approach; record keeping requirements; proprietary, confidential, or trade secret information; and service payments to the Department.

More specifically, the subject regulation covers:

1. Definitions: administrative fee, assessment, brand, collection, operational costs, reporting period, service provider, and significant or material change
2. Standard outline to use for submitting plan and reports that includes the following topics:
 - a. Contact Information
 - b. Scope
 - c. Program Goals and Activities
 - d. Solid Waste Management Hierarchy
 - e. Collection Systems
 - f. Market Development
 - g. Financing Mechanism
 - h. Education and Outreach
 - i. Program Performance Measurement
 - j. Stakeholder Consultation
 - k. Audits

Staff have met with numerous stakeholders, participated in the national Paint Product Stewardship Initiative, and conducted a public workshop on March 10, 2011 to share and accept comments on the informal draft regulatory text. Approximately 80 people participated in the workshop either in-person or via webinar. Comments from the public were incorporated into the "Proposed Regulation for Architectural Paint Recovery Program".

POLICY STATEMENT OVERVIEW

To implement Assembly Bill 1343 of 2010, the Department has responsibility to approve or disapprove paint stewardship plans submitted by manufacturers or their designated product stewardship organization, review annual reports and adopt a finding of compliance or noncompliance, and provide oversight and enforcement to ensure a level playing field among architectural paint manufacturers. For manufacturers to be in compliance, they must have an approved plan; implement the corresponding stewardship program; pay the de-

partment an annual administrative fee for its services related to oversight and enforcement; and submit annual reports. Enforcement is addressed through civil penalties for non-compliance. Additional accountability is provided via a public, transparent process that allows all stakeholders and the public to track progress. Additionally, paint manufacturers and/or stewardship organization(s) shall pay CalRecycle an administrative fee to cover the cost of its oversight and enforcement services.

PLAIN ENGLISH REQUIREMENTS

Department staff prepared the proposed regulation pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulation is considered non-technical and is written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

Public Resources Code Sections 40502, 42970 and 42972 through 42978, and Government Code Section 6253 provide authority for this regulation. The purpose of the proposed actions is to implement, interpret, and make specific the law related to paint stewardship. The following is a list of references cited in this proposed regulation: Public Resources Code: 40127, 40180, 40191, 40192, 40201, 41780, 42970, 42971, 42972, 42973, 42974, 42975, 42976, 42977, 42978, and 42981; California Code of Regulations, Title 5, Section 19812; and Government Code sections 11500, and 11506.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS

Department staff has determined that the proposed regulation does not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code §§17500 through 17630; 4) other non-discretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

FINDINGS ON NECESSITY OF REPORTS

Department staff found that the requirement for specific reports is necessary for the health, safety, and wel-

fare of the people of the state because it will help to ensure that the law applies equally to covered entities.

EFFECT ON HOUSING COSTS

Department staff made a determination that the proposed regulation will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

Department staff made an initial determination that although the proposed regulation would affect approximately 6,500 businesses in California, it would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed regulation clarifies existing law and imposes no new requirements that would result in adverse cost impacts. The types of businesses affected include architectural paint manufacturers, distributors, and retailers.

EFFECT ON SMALL BUSINESSES

Department staff made an initial determination that, although the proposed regulation could affect approximately 5,000 small businesses (those with under 100 employees), it will not have a significant statewide adverse economic impact, including the ability of California businesses to compete with businesses in other states because the proposed regulation clarifies existing law and imposes no new requirements that would result in adverse cost impacts.

EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA

Department staff determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Department staff has determined that the adoption of the proposed regulation will not have a cost im-

pact on private persons or businesses, because the impacts of the proposed regulation already exist in current law and regulation. The proposed regulation clarifies existing law and imposes no new adverse impacts.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Cynthia Dunn
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
PHONE: (916) 341-6449
FAX: (916) 319-7495
e-mail: paint@calrecycle.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Emily Wang
Materials Management and Local Assistance
Division
California Department of Resources Recycling
and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
PHONE: (916) 322-2888
FAX: (916) 319-7628
e-mail: paint@calrecycle.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file, and all information that provides the basis for the proposed regulation, available for inspection and copying throughout the rulemaking process at the above ad-

dress. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Cynthia Dunn at the address or email address listed above. For more timely access to the proposed text of the regulation, and in the interest of waste prevention, interested parties are encouraged to access the Department's Internet webpage at <http://www.calrecycle.ca.gov/Laws/Rulemaking/Paint/default.htm>. Additionally, the Final Statement of Reasons will be available at the above-listed Internet address or you may contact the persons named above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the Department adopts the regulation as revised. Requests for the modified text should be made to the contact person named above. The Department will transmit any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; and all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050, 5510, 8389, 8550, 8552.1, 8553 and 8555, of the Fish and Game Code and to implement, interpret or make specific sections 713, 1050, 7850, 7850.5, 7852.2, 7881, 8043, 8053, 8389, 8550-8557, and 8559 of said Code, proposes to amend sections 163 and 164, Title 14, California Code of Regulations, relating to the commercial herring fishery.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject

to such regulations as the Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

The proposed regulations would establish the fishing quota, season dates and times for fishing operations for the 2011–2012 season in San Francisco Bay based on the most recent biomass assessments of spawning populations of herring as well as season dates and times for fishing operations for the 2011–2012 season in Tomales Bay. There are no quota changes proposed for Crescent City Harbor, Humboldt or Tomales bays for the 2011–2012 herring season.

The following is a summary of the proposed changes in sections 163, and 164, Title 14, CCR:

- Set the San Francisco Bay quota between zero (0) and 10 percent (0 and 5,708 tons) of the 2010–2011 spawning biomass. The Department is recommending that the San Francisco Bay quota be set at 2,854 tons, which is five percent of the 2010–2011 spawning biomass. If the Commission were to adopt this option, a 2,854 ton quota would result in a 5.0 ton individual quota for a “CH” gill net permittee and a 3.3 ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery.
- Increase the daily market order from a licensed fish dealer for herring fresh fish market permittees from 500 to 1,000 pounds.
- Set the dates of the roe herring fisheries in San Francisco Bay for Odd and Even platoons in San Francisco Bay from noon on Monday, January 2, 2012, until noon on Friday, March 9, 2012.
- Set the dates of the roe herring fishery in Tomales Bay from noon on Monday, December 26, 2011, until noon on Friday, February 24, 2012.
- Allow San Francisco Bay and Tomales Bay fresh fish market permits to be fished from November 2 until March 31, excluding days during that period when the San Francisco Bay and Tomales Bay limited entry Pacific herring gill net permit fisheries are open.

The following are minor editorial changes proposed to improve clarity and consistency of the regulations:

- The proposed regulations would simplify requirements for herring permit applications due to the implementation of the Department’s Automated License Data System (ALDS). ALDS streamlines the license process, so that permittees will no longer be required to submit copies of a current license or registration when renewing permits. This information will be available

electronically which eliminates the need for paper documentation. Application form numbers and fee amounts will be removed and replaced with reference to Section 705 of Title 14, CCR, pending approval of amendments to Section 705 in a separate rulemaking. This section contains application numbers and fee amounts for commercial fishing permits.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, on all options relevant to this action at a hearing to be held at the State of California Resources Agency Building Auditorium, 1416 Ninth Street, Sacramento, California, on Thursday, August 4, 2011, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, on all actions relevant to this action at a hearing to be held at the Red Lion Hotel, 1830 Hilltop Drive, Redding, California, on Thursday, September 15, 2011, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before September 8, 2011, at the address given below, or by fax at (916) 653–5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on September 12, 2011. All comments must be received no later than September 15, 2011, at the hearing in Redding, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in **strikeout–underline** format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Jon K. Fischer, Deputy Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **Mr. John Mello, Marine Region, Department of Fish and Game, (707) 441–5755 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed,

they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Department is providing the Commission a quota option range between zero to 10 percent of the 2010–2011 spawning biomass estimate of 57,082 tons. The potential changes to State total economic output, if the Commission were to choose a 10 percent, five percent, or zero percent option, are \$4,262,000, \$1,113,000, and \$(2,053,000), respectively, relative to last season. Both the 10 and five percent options result in positive incremental contributions to economic output for the State, whereas the zero percent option would result in an adverse impact to economic output for the State, and loss of \$2,053,000 (2010 dollars). This is based on an economic output multiplier of 1.774 for calculating total direct, indirect, and induced impacts to California's economy from the herring fishery.

Depending on which harvest option the Fish and Game Commission chooses for 2011–2012, the harvestable quota will be between zero and 5,708 tons. There would be no adverse incremental economic impact to businesses in California under the Department's recommended five percent quota of 2,854 tons. Given current market conditions for herring roe, none of the quota options are expected to adversely affect the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Depending on which harvest option the Fish and Game Commission chooses for 2011–2012, the harvestable quota will be between zero and 5,708 tons. Both the 10 percent and five percent harvest options, result in positive incremental contributions to employment for the State, 524 and 137 jobs, respectively, whereas a zero percent harvest could result in 253 potential job losses. This is based on an employment multiplier of 218.3 jobs per million dollars produced in direct fishing revenue from the California herring fishery.

Assuming a quota is set at the Department's recommended five percent; equal to 2,854 tons, there would be a potential incremental increase in direct fishing revenue of \$627,000, and increase of 137 jobs related to California's herring fishery.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**TITLE 15. DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

NOTICE OF EMERGENCY REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret, and make specific PC Section 5054, proposes to amend Section 3140 of the California Code of Regulations, Title 15, Division 3, concerning Funds Enclosed in Correspondence.

PUBLIC HEARING

Date and Time: September 15, 2011 — 8:30 a.m. to 9:30 a.m.
Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street—North Building
Sacramento, CA 95811
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close September 15, 2011 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075 or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**G. Long
Regulation and Policy Management Branch
Telephone (916) 445-2276**

Questions regarding the substance of the proposed regulatory action should be directed to:

**I. Painter
Inmate Trust Account Section
Accounting Services
Telephone (916) 255-1036**

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 through 17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

**ASSESSMENTS OF EFFECTS ON JOB AND/OR
BUSINESS CREATION, ELIMINATION
OR EXPANSION**

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

**AVAILABILITY OF PROPOSED TEXT AND
INITIAL STATEMENT OF REASONS**

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

**AVAILABILITY OF THE FINAL STATEMENT
OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

**AVAILABILITY OF CHANGES TO
PROPOSED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code section 11340.

This action provides the following:

- Amends Section 3140 of the CCR, Title 15, Division 3 to allow the Department to place a hold on money orders until they have cleared the bank upon which they are drawn.
- Ensures funds from fraudulent money orders from the public are not deposited into inmate trust accounts.

**TITLE 15. DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

NOTICE OF EMERGENCY REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3076 through 3076.3 and adopt Sections 3076.4 and 3076.5 of the California Code of Regulations (CCR), Title 15, Division 3, concerning the recall of an inmate's commitment.

PUBLIC HEARING

Date and Time: September 15, 2011 — 10:30 a.m. to 11:30 a.m.
Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street — North Building
Sacramento, CA 95811
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close September 15, 2011, at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**R. Ruiz
Regulation and Policy Management Branch
Telephone (916) 445-2309**

Questions regarding the substance of the proposed regulatory action should be directed to:

**M. Rocha
Classification Services Unit
Telephone (916) 323-2670**

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500-17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESS**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses,

including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to GC Section 11340.

This action provides the following:

- Amends Sections 3076 through 3076.3 of the CCR, Title 15, Division 3 in order to incorporate the new PC provisions established by Assembly Bill (AB) 1539.
- Adopts into the CCR new Sections 3076.4, and 3076.5, concerning Recall of Commitment.

- Brings the Department into compliance with PC Section 1170(e) as amended by the passage of AB 1539. PC provisions governing Recall of Commitment now include permanently medically incapacitated inmates as eligible for recall consideration. This is designed to save the state the cost of health care of these inmates and the associated guarding costs by considering for recall another inmate population who may pose a decreased risk to society as a result of their advanced medical condition.
- Describes “Activities of Daily Living,” as defined by statute which are the criteria that CDCR physicians will use to evaluate an inmate’s degree of incapacitation.
- Establishes the process by which inmates will be considered for a Recall of Commitment recommendation.
- Establishes in the regulations, three existing forms and two new forms related to the Recall of Commitment process. Additionally, existing form CDC 127 (06/01), Notification in Case of Inmate Death, Serious Injury, or Serious Illness is the current version of this form and replaces any other references to this form. The Department will update Title 15 and the Department of Operations Manual to reflect this correction. All five forms have been incorporated by reference into the regulations and have been made available to the public for review.
 - CDCR 7385 (Rev. 09/09), Authorization for Release of Information
 - CDC 127 (Rev. 06/01), Notification in Case of Inmate Death, Serious Injury, or Serious Illness
 - CDCR 3038 (12/10), Notification to Inmate/Inmate Designee Recall and Re-Sentencing Procedure
 - CDCR 3039 (12/10), Waiver of Defendant’s Personal Presence at the Recall and Re-Sentencing Hearing
 - CDCR 1707 (Rev. 04/08), Request for Victim Services

TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (CBOT) is proposing to take the action described in the Informative Digest. Any person interested may submit statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile,

or email to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on September 5, 2011.

The Board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the CBOT. The request must be received in the CBOT office not later than 5:00 p.m. August 22, 2011.

The CBOT, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 2570.3 and 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 2570.2 and 2570.3, the Board is proposing to revise Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBOT proposes to amend Section 4155 of Article 6 of Division 39 of Title 16 of the California Code Regulations. Existing Section 4155(a)(2) requires occupational therapists who seek approval to provide advanced practice services in physical agent modalities to submit an application, Form APP, Rev 10/09 to the CBOT. The proposal contained herein seeks to establish that a new revised application would be required to be submitted by striking reference to Form APP, Rev 10/09, and replacing it with APP, Rev 07/11, which is incorporated by reference. Recent regulatory changes that became operative May 28, 2011, no longer require a therapist to submit a statement of learning as part of their application for advanced practice approval. The new revised application (APP, Rev 07/11) deletes instruction and reference for therapists to provide a statement of learning as part of the application.

Document Incorporated by Reference: Application for Advanced Practice Approval in Physical Agent Modalities (Form APP, Rev 07/11).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minor.

Non-discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above Determination: None.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

There is no impact on private business or representative private persons, except to clarify licensee representations that demonstrate professional qualifications of occupational therapy practitioner(s) to be in a manner inconsistent with the public health, safety or welfare. The only impact on private business or representative private persons is beneficial.

EFFECT ON HOUSING COSTS

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation has no effect on small business. Current regulations require the submission of an application to seek Board approval to provide these services. The proposed regulation contained herein merely establishes and specifies that a newly revised application will be required to be submitted.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identi-

fied and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, or be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation, any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from the Board's website as listed below or upon written request from the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board's website as listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Jeff Hanson
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263–2294 (Tel)
(916) 263–2701 (Fax)
cbot@dca.ca.gov

The backup contact person is:

Heather Martin
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263–2294 (Tel)
(916) 263–2701 (Fax)
cbot@dca.ca.gov

Website Access: All materials regarding this proposal can be found on-line at www.bot.ca.gov > Laws and Regulations > Proposed Regulations.

TITLE 16. BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (CBOT) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the proposed action in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on September 5, 2011, or must be received by the CBOT at the hearing.

The CBOT does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5:00 p.m. on August 22, 2011.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the action substantially as described below or may modify such action if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the action.

Authority and Reference: Pursuant to the authority vested by section 2570.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific section 2570.28, the Board is proposing changes to Division 39, Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The following regulatory changes are proposed:

- Amend CCR 4100. Definitions

Current law, BPC section 2570.2, the Occupational Therapy Practice Act, defines basic terminology related to the licensing of occupational therapists, and the practice of occupational therapy. Current regulation, CCR Section 4100, adds and defines additional occupational therapy terminology. Current CCR Section 4100(a) defines the term "Certificate" as authorization by the board for occupational therapy assistants to practice under the supervision of licensed occupational therapist. The term "certificate" is a synonym for license or permit. Current CCR Section 4100(c) includes the term "certificate" as well as the terms license and permit.

The amendment to CCR 4100 deletes the current section 4100(a) and the term "certificate" in section 4100(c) to eliminate redundancy and clarify the regulation. The phrase "or an occupational therapist assistant" is added to the current section 4100(d) to identify occupational therapy assistants as licensees as well as occupational therapists. Current CCR section 4100(e) adds the term "licensed" to modify "occupational therapist". All of the amendments to section 4100 are proposed to clarify the regulation and eliminate redundancy. The subsections of CCR 4100 have been re-numbered for internal consistency.

In addition, the current language contained in CCR 4100(f), (g), (h) and (i) is deleted. This deleted language is hereby re-numbered as new section CCR 4146 and is added to the proposed new Article 5.5, Enforcement.

- Amend CCR 4101. Delegation of Certain Functions

Current law confers specified powers and discretion to the board to facilitate the processing of disciplinary accusations. The amendment to CCR 4101 specifically:

- delegates to the board the power to order an examination by one or more physicians or surgeons to determine whether a licentiate's ability to practice is impaired due to mental or physical illness affecting competency by incorporating by reference BPC section 820;
- delegates to the board the authority to approve a settlement agreement for revocation or surrender of a license or approve an interim license suspension.

Article 5.5. Enforcement is being added as part of rulemaking file number Z-2010-0601-03.

- CCR 4146. Definitions is added to Article 5.5. Enforcement

Current law authorizes the board to adopt rules in accordance with the Administrative Procedure Act relating to professional conduct including the establishment of ethical standards of practice for persons holding a license to practice occupational therapy.

The current language of CCR 4100(f), (g), (h) and (i) proposed to be deleted from CCR 4100. Definitions, is hereby renumbered as section CCR 4146 and is added to the proposed new Article 5.5 Enforcement. The new section 4146 specifically:

- defines incompetence, negligence and gross negligence as unprofessional conduct for purposes of requirements for licensure;
- establishes that conviction of crimes involving conduct substantially related to the qualifications, functions or duties of an occupational therapy practitioner if it evidences present or potential unfitness of a licensee;

3. specifies crimes that demonstrate conduct inconsistent with public health, safety or welfare.
4. relocates the deleted language to the new Article 5.5. Enforcement. for clarity and renumbered for internal consistency.
- CCR 4148. Mental or Physical Examination of Fitness for Licensure is added to Article 5.5. Enforcement

Current law authorizes the board to order an examination by one or more physicians or surgeons to determine whether a licentiate's ability to practice is impaired due to mental or physical illness affecting competency by incorporating by reference BPC Section 820. The addition of CCR 4148 specifically:

1. confirms BPC section 820 in regulatory form;
2. authorizes the board to pay the full cost of any such examination.
- CCR 4149. Other Actions Constituting Unprofessional Conduct is added to Article 5.5

Current law empowers the board to adopt rules relating to professional licensure and the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state. The addition of CCR 4149 specifically:

1. identifies additional acts constituting unprofessional conduct primarily relating to the prosecution of disciplinary proceedings against a licensee, other than violations of the California Penal Code.
- CCR 4149.1 Revocation for Sexual Contact is added to Article 5.5. Enforcement

Current law empowers the board to adopt rules relating to professional licensure and the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state. The addition of CCR 4149 specifically:

1. defines the term "sexual contact" for purposes of disciplinary proceedings;
2. incorporates by reference Section 44010 of the Education Code which defines the term "sex offense" and enumerates the Penal Code Sections which constitute a sex offense for purposes of license revocation proceedings;
3. prohibits an order staying the revocation of a license to be included in a proposed decision of revocation.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact: This regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses from other states. Businesses that employ occupational therapy practitioners would be affected if the practitioner had committed an act that resulted in revocation of the license thereby resulting in loss of income to the business and result in costs to recruit a replacement.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not have a significant economic impact on small businesses with the exception of private occupational therapy practitioners that have their license revoked.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposal described in this Notice. Adoption of the proposed regulatory action is consistent with the concept of transparency of government.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from our website as listed below or upon written request from the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board's website as listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Jeff Hanson
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294
(916) 263-2701 (FAX)
cbot@dca.ca.gov

The backup contact person is:

Heather Martin
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294
(916) 263-2701 (FAX)
cbot@dca.ca.gov

Website Access: All materials regarding this proposal can be found on-line at www.bot.ca.gov > **Laws and Regulations > Proposed Regulations.**

TITLE 16. BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (CBOT) is proposing to take the action described in the Informative Digest. Any person interested may submit statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in

this Notice, must be received by the Board at its office not later than 5:00 p.m. on September 5, 2011.

The Board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the CBOT. The request must be received in the CBOT office not later than 5:00 p.m. August 22, 2011.

The CBOT, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Business and Professions Code Sections 901 and 2570.20, and to implement, interpret or make specific Section 901 of said Code, the board is considering changes to Division 39 of Title 16 as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBOT proposes to adopt Sections 4116, 4117, 4118, and 4119, in Article 2.1 of Division 39, Title 16, relating to Sponsored Free Health Care Events.

On September 23, 2010, Governor Arnold Schwarzenegger signed AB 2699 (Bass, Chapter 270, Statutes of 2010), enacting Business and Professions Code (BPC) Section 901 ("§ 901"), which took effect January 1, 2011. This statute provides a regulatory framework for certain health care events at which free care is offered to uninsured or under-insured individuals by volunteer health care practitioners where those practitioners may include individuals who may be licensed in one or more states but are not licensed in California. Prior to this enactment, licensing laws precluded the participation of volunteers licensed outside of California. § 901 defines "sponsoring entities," "sponsored events," and "health care practitioners," and sets forth requirements for registration of sponsoring entities and authorization for participation by practitioners licensed in other states by the various boards responsible for licensure and regulation of healing arts.

These proposed regulations would implement, interpret, and make specific the provisions of § 901 by specifying procedures and forms to be used by sponsoring entities and out-of-state practitioners who desire to participate in sponsored events. The board's highest priority is the protection of the public and these pro-

posed regulations are intended to implement § 901 in a manner that will provide the greatest protection for the people of California.

The CBOT is hereby incorporating by reference the following forms:

- Sponsored Free Health Care Events—Registration of Sponsoring Entity, CBOT 901–A (Rev 9/2011)
- Request for Authorization to Practice Without a California License at a Registered Free Health Care Event, CBOT 901–B (Rev 9/2011)

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Non-discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact: This regulation will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. This initial determination is based on evidence/documents/testimony:

The regulation impacts nonprofit organizations sponsoring free health care events and practitioners from other states volunteering in California. There is some impact to the out-of-state volunteers in that they will be required to submit the processing fee to receive authorization to participate. This fee will have to be factored into the cost of the individual's volunteered services. The fee may be covered by sponsoring entities, who will also incur minor costs with respect to maintaining records for their volunteers, reporting to Boards after the events and filing a registration as appropriate. Those costs are imposed by the statute and not by the proposed regulations.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

There is no significant impact on private business or representative private persons, except to clarify licens-

ee representations that demonstrate professional qualifications of occupational therapy practitioner(s) to be in a manner inconsistent with the public health, safety or welfare. Minor costs will be involved in respect to the maintenance of records of volunteers, reporting to the CBOT after the event, and filing a registration as appropriate.

EFFECT ON HOUSING COSTS

None.

EFFECT ON SMALL BUSINESS

There is no significant cost impact on small business. Minor costs will be involved in respect to the maintenance of records of volunteers, reporting to the CBOT after the event, and filing a registration as appropriate.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, or be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation, any documents incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from the Board's website as listed below or upon written request from the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board's website as listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Jeff Hanson
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294 (Tel)
(916) 263-2701 (Fax)
cbot@dca.ca.gov

The backup contact person is:

Heather Martin
California Board of Occupational Therapy
2005 Evergreen Street, Suite 2050
Sacramento, CA 95815
(916) 263-2294 (Tel)
(916) 263-2701 (Fax)
cbot@dca.ca.gov

Website Access: All materials regarding this proposal can be found on-line at www.bot.ca.gov > Laws and Regulations > Proposed Regulations.

TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

NOTICE IS HEREBY GIVEN that the Board of Vocational Nursing and Psychiatric Technicians (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

Date: September 6, 2011

Time: 10:00 a.m.

Board for Professional Engineers & Land Surveyors
2535 Capitol Oaks Drive, 3rd Floor Conference Room
Sacramento, California 95833

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on **September 5, 2011**, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for fifteen (15) days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons

who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2854 and 4504 of the Business and Professions (B&P) Code and section 11425.50(e) of the Government Code; and to implement, interpret or make specific sections 315, 315.2, 315.4, 475, 729, 2875, 2876, 2878, 4520, and 4521 of said Code, as well as sections 11400.20, 11400.25.50(e) and 11500 of the Government Code and section 44010 of the Education Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board's highest priority is protection of California consumers. B&P Code sections 2841.1 of the Vocational Nursing (VN) Practice Act and 4501.1 of the Psychiatric Technician (PT) law mandate that the protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

The Board is authorized to investigate the criminal conviction history of applicants and licensees, subsequent arrests, allegations of unprofessional conduct, and unsafe or incompetent practice by licensed vocational nurses and psychiatric technicians. The Board is authorized to discipline licensees and applicants who may jeopardize the health, safety and welfare of the consumer.

B&P Code section 2854 (VN) and section 4504 (PT) authorize the Board to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Practice Act and the Psychiatric Technicians Law.

Government Code Section 11425.50(e) requires that a penalty in an administrative disciplinary action may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule subject to Chapter 3.5 (commencing with Section 11340) unless it has been adopted as a regulation pursuant to Chapter 3.5 (commencing with Section 11340).

The Board established its Disciplinary Guidelines to facilitate uniformity of disciplinary orders and to ensure that its disciplinary policies are known. The Guidelines are intended for use by individuals involved in disci-

plinary proceedings against vocational nurse and psychiatric technician licensees or applicants, including administrative law judges and attorneys, as well as the Board members who review proposed decisions and stipulations and have ultimate authority to make final decisions.

SPECIFIC CHANGES AND FACTUAL BASIS/RATIONALE:

Amend Sections 2524 (VN) and 2579.10 (PT)

B&P Code section 315 (Senate Bill 1441, Chapter 548, Statutes of 2008) established a Substance Abuse Coordination Committee (SACC) to develop uniform standards for substance-abusing healing arts licensees. In April 2011, the SACC adopted sixteen uniform standards for use by all healing arts boards.

This proposal would amend Section 2514 (VN) and 2579.10 (PT) to incorporate by reference the new guidelines entitled "Disciplinary Guidelines and Uniform Standards Related to Substance Abuse" (Rev. 6/20/11) to implement the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. The proposed amendments will update and clarify the Board's recommended disciplinary orders and conditions of probation and include non-substantive, technical changes for grammatical and general clean up.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None.

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this proposed regulatory action will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. By way of its impact on the available workforce, the proposed regulatory action only affects relatively few individual licensees who may be unable to practice safely due to substance abuse, who are sex of-

fenders or who have otherwise violated the Board's laws. It will require individuals found to be substance-abusing to comply with evaluation and testing requirements.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposal will only have an impact on licensees or applicants disciplined by the Board.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses. The regulatory proposal affects licensed vocational nurses, licensed psychiatric technicians, and applicants for licensure.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833 or on the Board's website listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Linda Ruyters, Administrative Analyst
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No: (916) 263-7845
Fax No: (916) 263-7859
E-Mail Address: linda.ruyters@dca.ca.gov

The backup contact person is:

Name: Marilyn Kimble, Enforcement Program Manager
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No: (916) 263-2042
Fax No: (916) 263-7857
E-Mail Address: marilyn.kimble@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.bvnpt.ca.gov.

TITLE 17. CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

NOTICE OF PROPOSED REGULATION AMENDMENTS

California Code of Regulations
Title 17. — Public Health
Division 4 — California Institute for Regenerative Medicine
Chapter 8

Date: July 22, 2011

Deadline for Submission of Written Comment: September 5, 2011 — 5:00 p.m.

Hearing Date: None scheduled.

Subject Matter of Proposed Regulation Amendments: Loan Administration Policy

Sections Affected:

The proposed action amends section 100800 of Title 17 of the California Code of Regulations.

Authority: Article XXXV of the California Constitution and sections 125290.35, subdivisions (a), (b)(1), (2), (3), (4), (5) and (6); and 125290.40, subdivision (j), Health and Safety Code.

Reference: Sections 125290.40, 125290.70, 125292.10, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Institute for Regenerative Medicine (“Institute” or “CIRM”) was established in early 2005 with the passage of Proposition 71 (the “Act”), the California Stem Cell Research and Cures Initiative. The statewide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004, called for the establishment of a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

The Independent Citizens’ Oversight Committee (“ICOC”) is the 29-member governing board for the Institute. The ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non-profit academic and research institutions, patient advocacy groups and the biotechnology industry.

The Act charges the ICOC with developing standards and criteria to make grant and loan awards and to develop standards and criteria for proper oversight of these grants and loans.

Public-private partnerships involving research and development activities among industry, government, and universities can play an instrumental role in introducing key new technologies and valuable products to the commercial marketplace. Experience shows that partnerships involving government participation in research and development activities with industry, universities, and government laboratories can greatly facilitate the translation of basic research discoveries to products with societal benefits.

The mission of the CIRM is to foster and promote stem cell research with the aim of improving human health. A secondary goal is to strengthen California’s biotechnology industry and create collateral economic benefits such as high-paying jobs and increased tax revenues. CIRM believes that the funding of commercial research organizations focused on stem cell-related projects is a key component to achieving the overall mission of the Institute. Increased interest by the commercial research sector in stem cell-related research projects and the successful translation of basic research discoveries into commercial products for public use are

primary success indicators (among others) that can be used by CIRM to track benefits of commercial sector funding.

To achieve the goal of commercializing stem cell research-related products, CIRM will fund non-profit and for-profit (commercial) research institutions in California via options that include grants and loans. As required by law, all CIRM-funded research activities must be conducted in the State of California. The goal of a loan program is to fund the translation of research into research tools, medical diagnostics and devices, and therapeutic products. These loans will be targeted at the funding gaps in product development that will serve to leverage participation by follow-on investors, such as venture capital and other capital markets, and result in more products that enter the market. For the State and CIRM, the advantage of a loan program versus a grant is the ability to recycle CIRM research funds, potentially enlarging the return for each CIRM research dollar expended. In addition to loan principal and interest, loans may also feature warrant coverage, depending on the type of loan, which will constitute additional interest-based return on the investment in light of risk posed.

Early stage companies and pre-commercialization entities would be the prime targets for a loan program in light of the lack of funding available in what is known as the “valley of death” for translational development of products. Established companies indicate a loan program would be valuable because there are more research and product development projects worthy of pursuit than can be funded with existing funds available to the companies.

The document incorporated by reference, the Loan Administration Policy (LAP) “Revised 9/2011” works from the Non-Profit Grants Administration Policy (Regulation 100500) and setting out the modified policies that apply to CIRM loan funding of for-profit organizations. Note that this LAP does not incorporate the For-Profit GAP, which continues to apply to for-profit organizations to the extent that CIRM funds them through grants. Where differences between grants and loans warrant different treatment, this LAP provides the modified sections that apply to loans. All other provisions of the Non-Profit GAP apply to loans. When Non-Profit GAP provisions are applied to loans, “Loan” replaces “Grant” and “Loan Recipient” replaces “Grantee.”

The proposed amendments affect not regulation 100800 itself, but the document incorporated by reference, the “CIRM Loan Administration Policy, Rev. 9/2011.” These amendments will clarify definitions applicable in the policy, such as “Change of Control,” “Company-Backed Loan,” and “Product Backed Loan” and other provisions of the policy to address when a CIRM-funded project is “successful” or not and

the consequences that flow from that fact. In an addition, the amendments clarify when a “change of control” occurs and the consequences of that fact. The amendments clarify the applicable interest rate when a loan is made and also when it is reinstated after forgiveness. The amendments clarify the circumstances under which the Loan Recipient and CIRM may agree to alter terms of a Loan and clarifies the warrant requirements for company-backed and product-backed loans. In addition, new language provides the circumstances where a Loan Recipient may choose a risk premium alternative to warrants. The amendments also simplify the circumstances where a Loan may be forgiven and reinstated. The Loan Application Process is also simplified to alert Loan applicants of the steps involved in the application process.

Technical, Theoretical or Empirical Studies, Reports or Documents:

A. Documents or Laws:

None.

B. Public Input:

Discussion and public input received at public meetings conducted by the Finance Subcommittee on April 18, 2011, and the ICOC on May 3 and 4, 2011.

Copies of the documents referenced above are available at the internet link indicated or at the offices of CIRM located at 210 King Street, San Francisco, California, 94107. Transcripts and meeting minutes of the meetings referenced in Section “B” are available on CIRM’s website, www.cirm.ca.gov under the “Meetings Transcripts” and “Meetings Minutes” links.

Submittal of Comments:

Any interested party may present comments in writing about the proposed action to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on September 5, 2011. Comments regarding this proposed action may also be transmitted via e-mail to loanpolicy@cirm.ca.gov or by facsimile transmission to (415) 396-9141.

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person’s representative requests a public hearing, he or she must do so in writing no later than August 22, 2011.

Effect on Small Business:

CIRM has determined that the proposed regulatory action has no impact on small businesses. The proposed amendments implement conditions on awarding grants for stem cell research. This research is conducted almost exclusively by large public and private non-profit institutions, as well as large for-profit institutions. As such, the regulation is not expected to adversely impact

small business as defined in Government Code section 11342.610.

Impact on Local Agencies or School Districts:

CIRM has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a “new program or higher level of service of an existing program” within the meaning of section 6 of Article XIII of the California Constitution. CIRM has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

Costs or Savings to State Agencies:

CIRM has determined that no savings or increased costs to any agency will result from the proposed regulatory action.

Effect on Federal Funding to the State:

CIRM has determined that no costs or savings in federal funding to the state will result from the proposed regulatory action.

Effect on Housing Costs:

CIRM has made an initial determination that the proposed action will have no effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

CIRM has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses:

CIRM has made an initial determination that the regulatory action will not have a significant cost impact on representative private persons or businesses. CIRM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on the Creation, Elimination, or Expansion of Jobs:

CIRM has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Consideration of Alternatives:

CIRM must determine that no reasonable alternatives considered by the agency, or that have otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective

and less burdensome to affected private persons or businesses than the regulatory action.

Availability of Statement of Reasons and Text of Proposed Regulations:

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

Availability of Changed or Modified Text:

After the close of the comment period, CIRM may make the proposed regulation permanent if it remains substantially the same as described in the Policy Statement Overview. If CIRM does make changes to the proposed amendments to the regulations, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

Agency Contact:

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

C. Scott Tocher, Counsel
California Institute for Regenerative Medicine
210 King Street
San Francisco, CA 94107
(415) 396-9100

Questions on the substance of the proposed regulatory action may be directed to:

C. Scott Tocher, as above, or Elona Baum, General Counsel
California Institute for Regenerative Medicine
(415) 396-9100

The Notice of Proposed Regulatory Adoption, the Initial Statement of Reasons and any attachments, and the proposed text of the regulations are also available on CIRM’s website, www.cirm.ca.gov.

Availability of Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9, subdivision (a), may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on CIRM’s webpage and accessed at www.cirm.ca.gov.

TITLE 22. DEPARTMENT OF SOCIAL SERVICES

ORD #0511-02

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM #1 Children's Residential Exceptions to Age 18

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held as follows:

September 14, 2011

Office Building #8, Room 105

744 P St.

Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 14, 2011.

Following the public hearing, CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of non-substantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these

proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586

FACSIMILE: (916) 654-3286

E-MAIL: ord@dss.ca.gov

CHAPTERS

Title 22, Division 6, Chapter 1 (General Licensing Requirements), Section 80001 (Definitions); Chapter 4 (Small Family Homes), Sections 83000 (General) and 83001 (Definitions); Chapter 5 (Group Homes), Section 84001 (Definitions); Chapter 7 (Transitional Housing Placement Program), Section 86001 (Definitions); and, Chapter 8.8 (Foster Family Agencies), Section 88001 (Definitions).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Community Care Facilities Act provides for the licensure and regulation of children's residential community care facilities which include Foster Family Agencies, Foster Family homes, Group Homes, Small Family Homes, and Transitional Housing Placement Programs. Unless otherwise provided in statute, these facilities are authorized to provide care and supervision to a child in foster care who is under age 18.

Recent research evidence cites that a foster youth who emancipates at age 18 can face problems in a variety of areas that include health, substance abuse, incarceration, housing, and future family formation.¹ The Midwest Evaluation of the Adult Functioning of Former Foster Youth found that a youth remaining in care for an additional year was more likely to continue education, have stable housing, stay out of the juvenile justice system, receive independent living services, and have access to health and mental health services.²

¹ Courtney, M.E., *The Difficult Transition to Adulthood for Foster Youth in the US: Implications for the State as Corporate Parent*, in Social Policy Report, Society for Research in Child Development, Vol. XXIII, No. 1, 2009.

² Courtney, M.E., et al., *Midwest Evaluation of the Adult Functioning of Former Foster Youth*, Chapin Hall at the University of Chicago, 2007.

Current regulations, with the exception of Foster Family Homes, define a “child” as being under 18 and vary in their clarity with regard to provisions for a child to remain in foster care past that age. As a result, some licensed Children’s Residential facilities have sought exceptions to and waivers from licensing requirements to provide care and supervision to older youth who are permitted to remain in foster care as specified in statute. Provisions of the Health and Safety Code and Welfare and Institutions Code permit a child to remain in foster care past age 18 under certain conditions. These are:

- A youth who, prior to turning 18, is in foster care and attending high school or the equivalent level of vocations or technical training on a full-time basis or pursuing a high school equivalency certificate may continue to remain in foster care and receive Aid to Families with Dependent Children–Foster Care (AFDC–FC) benefits until age 19 if he or she is expected to complete full-time education or training or receive a high school equivalency certificate by that age (W&I Code, section 11403).
- A youth with special health care needs or a developmental disability may remain in foster care after he or she turns 18 if he or she resides in a licensed foster family home, small family home, group home, or certified family home, is completing a publicly funded education program, and expected to complete the program by age 22, and there is agreement by all parties involved that foster care continue (H&S Code, section 1507.2; W&I Code, sections 17710 and 17732.1).

At the discretion of the California Department of Social Services, proposed changes will be made to the regulations to clarify the definition for “child” consistent with the authority, clarity, consistency, necessity, non-duplication, and reference standards of the Administrative Procedure Act, section 11349 of the Government Code.

COST ESTIMATE

1. Costs or Savings to State Agencies: No Impact
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500–17630: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: No Impact
4. Federal Funding to State Agencies: No Impact

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state–mandated local costs in these regulations, which require state reimbursement under Section 17500 et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

Although the proposed action may affect Foster Family Agencies and Group Homes, CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

Although the proposed action may affect Foster Family Agencies and Group Homes, CDSS has made an initial determination that there is no adverse economic impact on small businesses as a result of filing these regulations. Children’s Residential program regulations will be amended to implement statutes that permit a child to remain in foster care past age 18, pursuant to section 1507.2 of the Health and Safety Code and sections 11402, 17710, and 17732.1 of the Welfare and Institutions Code.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 1502, 1522(j), 1524(e), 1530, 1530.8, 1530.9, 1531, and 1559.110, Health and Safety Code; and, Section 17730, Welfare and Institutions Code. Subject regulations implement and make specific Section 1507.2, Health and Safety Code; and, Sections 11402, 17710, and 17732.1, Welfare and Institutions Code.

**CDSS REPRESENTATIVE REGARDING
RULEMAKING PROCESS OF THE PROPOSED
REGULATION**

Contact Person: Kenneth Jennings (916) 657-2586
Backup: Zaid Dominguez (916) 657-2586

**TITLE 22. EMERGENCY MEDICAL
SERVICES AUTHORITY**

TITLE 22. SOCIAL SECURITY

**DIVISION 9. PREHOSPITAL EMERGENCY
MEDICAL SERVICES**

**CHAPTER 3: ADVANCED EMERGENCY
MEDICAL TECHNICIAN**

[Notice published July 22, 2011]

**NOTICE OF PROPOSED AMENDMENT
OF REGULATIONS**

The Emergency Medical Services Authority ("EMSA") proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

EMSA will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the EMSA. Comments may also be submitted by facsimile (FAX) at (916) 324-2875 or by email to adam.morrill@emsa.ca.gov. The written comment period closes at **5:00 p.m.** on **September 5, 2011**. The EMSA will consider only comments received at the EMSA offices by that time. Submit comments to:

Adam Morrill, Health Program Specialist
EMS Authority
10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670

AUTHORITY AND REFERENCE

The Health and Safety Code, Section 1797.107 authorizes the EMSA to adopt the proposed regulations, which would implement, interpret, or make specific Sections 1797.2, 1797.53, 1797.171, 1797.176, 1797.178, 1797.206, 1797.210, 1797.218, 1797.220, 1798.2, 1798.3, and 1798.105 of the Health and Safety Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Current law authorizes the EMSA to adopt minimum standards for the training and scope of practice for Advanced EMTs. Current law also authorizes the EMSA to adopt minimum standards for the certification and recertification of Advanced EMTs.

The EMSA proposes to amend Chapter 3 of Division 9, of Title 22. This Chapter of Regulations was last revised in 2010. These proposed changes are necessary in order to bring the AMET training standards in line with national standards and testing.

These amendments are intended to:

1. Amend the acceptable certifying exam for AEMTs.
2. Amend the scope of practice for AEMTs to bring it into conformance with national standards.
3. Amend the training requirements and training standards to bring them into conformance with national standards.

DISCLOSURES REGARDING THE PROPOSED ACTION

The EMSA has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.

The EMSA has made an initial determination and declares that the proposed amendments to the Advanced Emergency Medical Technician regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The EMSA has relied on discussions with representatives of groups that are based in all levels of government (state, county, local) as well as groups representing businesses and institutions that may be affected.

The EMSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; and
- (3) affect the expansion of businesses currently doing business in California.

Significant effect on housing costs: None.

Small Business Determination

The EMSA has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

EMSA must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Adam Morrill, Health Program Specialist
EMS Authority
10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670
(916) 431-3646

Or

Laura Little
EMS Authority
10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670
(916) 322-4336

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Morrill at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The EMSA will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Adam Morrill at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the EMSA may adopt the proposed regulations substantially as described in this notice. If the EMSA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the EMSA adopts the regulation as revised. Please send requests for copies of the modified regulations to the attention of Adam Morrill at the address indicated on the previous page. The EMSA will accept written comments on the modified regulations for 15 days after the date on which they were made available.

**AVAILABILITY OF THE FINAL STATEMENT
OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Morrill at the address listed on the previous page.

**AVAILABILITY OF DOCUMENTS ON
THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.emsa.ca.gov.

**TITLE 22. EMERGENCY MEDICAL
SERVICES AUTHORITY**

TITLE 22. SOCIAL SECURITY

**DIVISION 9. PREHOSPITAL EMERGENCY
MEDICAL SERVICES**

**CHAPTER 2: EMERGENCY
MEDICAL TECHNICIAN
[Notice published July 22, 2011]**

**NOTICE OF PROPOSED AMENDMENT
OF REGULATIONS**

The Emergency Medical Services Authority (“EMSA”) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The EMSA has decided not to hold a public hearing. However, EMSA will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the EMSA. Comments may also be submitted by facsimile (FAX) at (916) 324-2875 or by e-mail to adam.morrill@emsa.ca.gov. The written comment period closes at **5:00 p.m.** on **September 5, 2011**. The EMSA will consider only

comments received at the EMSA offices by that time. Submit comments to:

Adam Morrill, Health Program Specialist
EMS Authority
10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670

AUTHORITY AND REFERENCE

The Health and Safety Code, Section 1797.107 authorizes the EMSA to adopt the proposed regulations, which would implement, interpret, or make specific Sections 1797.2, 1797.53, 1797.171, 1797.176, 1797.178, 1797.206, 1797.210, 1797.218, 1797.220, 1798.2, 1798.3, and 1798.105 of the Health and Safety Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Current law authorizes the EMSA to adopt minimum standards for the training and scope of practice for EMTs. Current law also authorizes the EMSA to adopt minimum standards for the certification and recertification of EMTs.

The EMSA proposes to amend Chapter 2 of Division 9, of Title 22. This Chapter of Regulations was last revised in 2010. These proposed changes are necessary in order to bring the EMT training standards in line with national standards and testing.

These amendments are intended to:

1. Amend the scope of practice for EMTs to bring it into conformance with national standards.
2. Amend the training requirements and training standards to bring them into conformance with national standards.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The EMSA has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.

The EMSA has made an initial determination and declares that the proposed amendments to the Emergency Medical Technician regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The EMSA has relied on discussions with representatives of groups that are based in all levels of government (state, county, local) as well as groups representing businesses and institutions that may be affected.

EMSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; and
- (3) affect the expansion of businesses currently doing business in California.

Significant effect on housing costs: None.

Small Business Determination

The EMSA has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

EMSA must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Adam Morrill, Health Program Specialist
EMS Authority
10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670
(916) 431-3646

Or

Laura Little
EMS Authority
10901 Gold Center Drive, Suite 400
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(916) 322-4336

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Morrill at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The EMSA will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Adam Morrill at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the EMSA may adopt the proposed regulations substantially as described in this notice. If the EMSA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the EMSA adopts the regulation as revised. Please send requests for copies of the modified regulations to the attention of Adam Morrill at the address indicated on the previous page. The EMSA will accept written comments on the modified regulations for 15 days after the date on which they were made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Morrill at the address listed on the previous page.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.emsa.ca.gov.

**TITLE 23. DEPARTMENT OF WATER
RESOURCES**

TITLE 23. WATERS

**DIVISION 2. DEPARTMENT OF
WATER RESOURCES**

**CHAPTER 5.1 WATER CONSERVATION
ACT OF 2009**

NOTICE OF PROPOSED RULEMAKING

Certificate of Compliance Rulemaking

**Related to Emergency Rulemaking File
#2011-0624-01E**

NOTICE IS HEREBY GIVEN that the Department of Water Resources (hereafter Department) proposes to adopt the proposed regulation described below after considering comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

This proposed regulation is a Certificate of Compliance rulemaking following the Emergency rulemaking file #2011-0624-01E. The Department proposes to add Chapter 5.1, Sections 597, 597.1, 597.2, 597.3, and 597.4 to Title 23, Division 2 of the California Code of Regulations.

These proposed sections provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirements in §10608.48(1)(b) of the California Water Code. The regulation would apply to agricultural water suppliers providing water to 25,000 irrigated acres or more. Suppliers providing water to 10,000 or more irrigated acres but less than 25,000 irrigated acres are also subject to this regulation if sufficient funding is provided to them specifically for that purpose, as stated under Water Code §10853.

OPPORTUNITY FOR PUBLIC COMMENT

WRITTEN COMMENT PERIOD

The opportunity to submit written comment begins July 22, 2011 and closes September 6, 2011. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action.

Submit written comments to:

Fethi Benjemaa
Department of Water Resources
901 P Street, Suite 313A
Sacramento, CA 95814
jemaa@water.ca.gov

PUBLIC HEARINGS

The Department will also hold two public hearings. These hearings will be held in accordance with the requirements set forth in Government Code section 11346.8.

August 24, 2011
9:00 a.m. to 12:00 p.m.
Hearing Room
Bonderson Building
901 P Street
Sacramento, California 95814

September 8, 2011
9:00 a.m. to 12:00 p.m.
Alice Peters Auditorium
California State University, Fresno
5245 North Backer Avenue
Fresno, California 93740

AVAILABILITY OF MATERIALS

The following materials are available for public review throughout the public comment period:

- Text of Proposed Regulation
- Notice of Proposed Rulemaking
- Initial Statement of Reasons
- Materials Relied Upon
- Form 400
- Form 399
- Final Statement of Reasons (when it is prepared)
- Final Text of Regulation

These materials may be viewed by either:

Visiting the Department's website
<http://www.water.ca.gov/wateruseefficiency/sb7/committees/ag/a2/>

Or arranging an in-person review. Please contact Fethi Benjemaa.

Fethi Benjemaa
Department of Water Resources
901 P Street, Suite 313A
Sacramento, CA 95814
jemaa@water.ca.gov
(916) 651-7025

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Fethi Benjemaa at the address indicated above.

The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

MATERIALS RELIED UPON

- Independent Panel on Appropriate Measurement of Agricultural Water Use — Convened by the California Bay-Delta Authority, Final Report (September 2003).
http://calwater.ca.gov/content/Documents/library/WUE/FinalReport_Sept03.pdf
- 2008 Conservation and Efficiency Criteria. The United States Department of the Interior, Bureau of Reclamation.
[http://www.usbr.gov/mp/watershare/documents/Water_mgmt/Planner/2008%20\(7\)%20Standard%20Criteria.pdf](http://www.usbr.gov/mp/watershare/documents/Water_mgmt/Planner/2008%20(7)%20Standard%20Criteria.pdf)
- Cooperative Measurement Study Report. Sacramento River Settlement Contractors in Cooperation with the Bureau of Reclamation. August 2010.
<http://rd108.org/component/content/article/1-latest-news/82-cooperative-measurement-study-report>
- Discussion Paper: Range of Options for Agricultural Water Measurement. Department of Water Resources. May 2011.
<http://www.water.ca.gov/wateruseefficiency/sb7/committees/ag/a2/>
- Cost Analysis for Proposed Agricultural Water Measurement Regulation in Support of Economic and Fiscal Impact Statement. March 2011.
<http://www.water.ca.gov/wateruseefficiency/sb7/committees/ag/a2/>
- Discharge measurement structures. Third revised edition 1989. Edited by M.G. Bos. International Institute for Land Reclamation and Improvement. Wageningen, The Netherlands 1989.

- Water Measurement Manual — A guide to effective water measurement practices for better water management. The United States Department of the Interior, Bureau of Reclamation. Third Edition, Revised Reprint 2001.
http://www.usbr.gov/pmts/hydraulics_lab/pubs/wmm/
- Arizona Administrative Code, Title 12, Chapter 15, Article 9 — Water Measurement. Sections R12-15-901 through R12-15-909.
- 2007 Census of Agriculture. US Department of Agriculture, Washington D.C. December 2009.
http://www.agcensus.usda.gov/Publications/2007/Full_Report/index.asp
- More with Less: Agricultural Water Conservation and Efficiency in California, Special Focus on the Delta. Pacific Institute, September 2008.
http://www.pacinst.org/reports/more_with_less_delta/more_with_less.pdf

AUTHORITY AND REFERENCE

The Department of Water Resources is proposing this action pursuant to the authority vested by the Water Code, Division 6, Part 2.55, Section 10608.48(i)(1) “The Department shall adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b) of Section 10608.48.”

The particular code sections that are being implemented, interpreted, or made specific are Water Code Sections 10608.48(b)(1), 10608.48(i)(1), and 10608.48(i)(2).

The Department proposes to add Chapter 5.1, Sections 597, 597.1, 597.2, 597.3, and 597.4 to Title 23, Division 2 of the California Code of Regulations.

INFORMATIVE DIGEST

Summary of Existing Laws and Regulations Related Directly to the Proposed Action

In November 2009, the Legislature enacted SB X7-7 (Steinberg) and placed into the California Water Code a requirement that the Department adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b) of Section 10608.48.

The regulation would apply to agricultural water suppliers providing water to 25,000 irrigated acres or more. Suppliers providing water to 10,000 or more irrigated acres but less than 25,000 irrigated acres are also sub-

ject to this regulation if sufficient funding is provided to them specifically for that purpose, as stated under Water Code §10853.

Agricultural water suppliers that are subject to the requirements must measure the volume of water delivered to customers with sufficient accuracy to (1) submit an annual report that summarizes aggregated farm–gate delivery data using best professional practices, and (2) adopt a pricing structure for water customers based at least in part on quantity delivered.

Paragraph 10608.48(i)(1) of SB X7–7 states:

The Department shall adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b).

That paragraph refers to 10608.48(b) of SB X7–7:

Agricultural water suppliers shall implement all of the following critical efficient management practices:

- (1) Measure the volume of water delivered to customers with sufficient accuracy to comply with subdivision (a) of Section 531.10 and to implement paragraph (2).
- (2) Adopt a pricing structure for water customers based at least in part on quantity delivered.

Paragraph 10608.12(a) of SB X7–7 states:

“Agricultural water supplier” means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding recycled water. “Agricultural water supplier” includes a supplier or contractor for water, regardless of the basis of right, that distributes or sells water for ultimate resale to customers. “Agricultural water supplier” does not include the department.

Paragraph 10853 of SB X7–7 states:

No agricultural water supplier that provides water to less than 25,000 irrigated acres, excluding recycled water, shall be required to implement the requirements of this part or Part 2.55 (commencing with Section 10608) unless sufficient funding has specifically been provided to that water supplier for these purposes.

Paragraph 10852 of SB X7–7 states:

An agricultural water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with this part.

Objectives of the Regulation

The objective of the regulation is to provide a range of water measurement options that agricultural water suppliers may use or implement to comply with the mea-

surement requirement in paragraph (1) of subdivision (b) of Water Code Section 10608.48.

Section 10608(e) of the Water Code declares that “the success of state and local water conservation programs to increase efficiency of water use is best determined on the basis of measureable outcomes related to water use or efficiency”. Section 10608.4 requires implementation of specific efficient water management practices (EWMP) for agricultural water use. Section 10608.48(b) specifically deems two of the EWMPs as critical and that agricultural water suppliers shall implement them: (1) measuring the volume of water delivered to customers with sufficient accuracy (the subject of this regulation), and (2) adopting a pricing structure for water customers based at least in part on quantity delivered. This regulation provides a range of water measurement options that allow agricultural water suppliers to implement the aforementioned critical EWMPs. Ultimately, these will help increase agricultural water use efficiency and conservation.

Comparable Federal Regulation or Statutes

The United States Bureau of Reclamation Conservation and Efficiency Criteria — Public Law 102–575, §3405(e). This law applies only to federal water contractors.

DISCLOSURES REGARDING THE PROPOSED ACTION

DETERMINATION OF NO MANDATE

The proposed regulation does not impose a mandate on local agencies or school districts.

ESTIMATE OF COSTS OR SAVINGS

Only Agricultural water suppliers that provide water to more than 25,000 acres of irrigated land are subject to this regulation. Costs to the agricultural water suppliers associated with complying with the regulation will be passed on to their customers (i.e., farmers). However, as required by legislation, agricultural water suppliers have to measure water deliveries to their customers in order to adopt a billing structure that is based at least partially on volume of water delivered. The volumetric pricing of water deliveries is expected to achieve an equitable billing for the agricultural water users, as well as encourage water use efficiency and conservation. Significant uncertainty associated with data and assumptions suggest that the range of potential cost is large. The mid–range estimates of total present value of costs are \$333 million over 20 years. About \$70 million of that would be initial assessments and capital improvements, and the remainder is the present value of annual O&M, administration, and capital replacement. Costs

could be as little as half that amount or as much as twice that amount. Average costs per acre potentially affected were estimated to be \$24 in initial costs and \$6.5 in annual ongoing O&M costs. Costs to individual farms are likely to vary significantly.

Costs or Savings to Any State Agency: None.

Cost to Any Local Agency or School District that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies: None.

Costs or Savings in Federal Funding to the State: None.

ASSESSMENT OF COST IMPACTS INCURRED BY PRIVATE SECTOR

Costs to the agricultural water suppliers associated with complying with the regulation will be passed on to their customers (i.e., farmers). Costs to individual farms are likely to vary significantly. The average cost per acre potentially affected were estimated to be \$24 in initial costs and \$6.5 in annual ongoing O&M costs (including reporting).

ASSESSMENT OF EFFECT ON JOBS/BUSINESSES

NONE.

The proposed regulation for agricultural water measurement will not:

- Eliminate jobs within California;
- Eliminate existing businesses within California;
- Affect the expansion of businesses currently doing business within California.

On the other hand, it is expected that the agricultural water measurement regulation will help create new businesses and expand existing ones in the domain of manufacturing of measurement devices and device testing and calibration.

It is also expected that an identified number of jobs will be created in manufacturing, installation, and maintenance of agricultural water measurement devices.

Statewide costs to comply with proposed agricultural water measurement regulation were estimated to be as high as \$350 million over 20 years. However, only agricultural water suppliers that provide water to 25,000 irrigated acres or more will be affected. About \$45 million of the estimated costs would be initial assessments and capital improvements, which could on the short-term have significant impact on the affected agricultural water suppliers. The average cost per irrigated acre of

affected land is estimated to be about \$24 in initial costs and \$6.5 per year in annual operation costs. It is believed however, that implementation of agricultural water measurement will help California farmers be more efficient in using water. Potential water savings from increased water use efficiency could help create additional farming production, thus increasing competitiveness.

The proposed agricultural water measurement regulation may have a potential cost impact on a representative private person or business if the person or the business is a farmer or a farming business that gets its irrigation water from a water supplier that is affected by this regulation. A detailed cost analysis can be found in the document from Materials Relied Upon: Cost Analysis for Proposed Agricultural Water Measurement Regulation in Support of Economic and Fiscal Impact Statement. March 2011.

Therefore, the Department has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

REPORTS REQUIRED FROM BUSINESSES

The proposed regulation for agricultural water measurement will require reporting on water measurement by the agricultural water supplier. The average cost of reporting requirement is estimated at \$1.5 per affected acre.

The proposed agricultural water measurement regulation is considered as a critical efficient water management practice which will potentially contribute to increasing the efficiency of use of an essential resource. Legislative findings and declarations assert that the waters of the state are of limited supply and are subject to ever-increasing demands; that the continuation of California's economic prosperity is dependent on adequate supplies of water being available for future uses; that it is the policy of the state to promote the efficient use of water; and that safe and reliable water supplies are critical to the health, safety, and welfare of all Californians, including the state's future generations.

Agricultural water measurement will also enable agricultural water suppliers to adopt a billing structure that is based at least partially on volume of water delivered as required by the law. The volumetric pricing of water deliveries is expected to achieve an equitable billing for the agricultural water users as well as further encourage water use efficiency and conservation.

Therefore, the Department finds that it is necessary for the health, safety or general welfare of the people of this state that the proposed regulation which requires a report, apply to businesses.

SIGNIFICANT EFFECT ON HOUSING COST

None.

Kent Frame
Department of Water Resources
901 P Street, Suite 314
Sacramento, CA 95814

SMALL BUSINESS DETERMINATION

kframe@water.ca.gov
(916) 651-7055

The proposed regulations may affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

To make this determination the Department convened an Agricultural Stakeholder Committee (ASC) prior to the submittal of the Proposed Emergency Regulation File #2011-0624-01E. The ASC provided alternatives to the Department and advised the Department's decision making.

The Department presented a series of draft proposals for this regulation to the ASC. The draft proposals were based on data analysis and input from the ASC. The final draft proposal became the text of the proposed regulation.

A detailed analysis of the consideration of alternatives is found in the document from Materials Relied Upon: Discussion Paper: Range of Options for Agricultural Water Measurement. Department of Water Resources. May 2011.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Fethi Benjemaa
Department of Water Resources
901 P Street, Suite 313A
Sacramento, CA 95814

jemaa@water.ca.gov
(916) 651-7025

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

**Department of Fish and Game —
Public Interest Notice**

For Publication July 22, 2011
CESA CONSISTENCY DETERMINATION
REQUEST FOR
Desert Sunlight Solar Farm Project
Riverside County
2080-2011-015-06

The Department of Fish and Game (Department) received a notice on July 12, 2011 that Desert Sunlight Holdings, LLC, a wholly-owned subsidiary of First Solar Development, Inc., proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The proposed action includes construction, operation, maintenance, and decommissioning of a commercial solar power generating facility and substation located primarily on Bureau of Land Management land.

The United States Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion (File No. FWS-ERIV-08B0789-11F0041)(BO) and incidental take statement (ITS) on July 6, 2011 which considered the effects of the project on the Federally and State threatened desert tortoise (*Gopherus agassizii*).

Pursuant to California Fish and Game Code Section 2080.1, Desert Sunlight Holdings, LLC is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, Desert Sunlight Holdings, LLC will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

**Department of Fish and Game —
Public Interest Notice**

For Publication July 22, 2011
CESA CONSISTENCY DETERMINATION
REQUEST FOR
Yurok Tribe Habitat Conservation Plan
Project Resubmit
Humboldt County
2080–2011–016–01

The Department of Fish and Game (Department) received a notice on July 12, 2011 that the Yurok Tribe proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The proposed action includes the *Habitat Conservation Plan and Candidate Conservation Agreement with Assurances for the Yurok Tribe* (the YHCP).

The National Marine Fisheries Service (Service) issued a Permit for Incidental Take of Endangered/Threatened Species (File No. 1613–AA)(ITP) and incidental take statement (ITS) on April 14, 2011, which considered the effects of the YHCP on the Federally and State threatened Southern Oregon/Northern California Coast Coho salmon (*Oncorhynchus kisutch*).

Pursuant to California Fish and Game Code Section 2080.1, the Yurok Tribe is requesting a determination that the ITP and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the ITP and ITS are consistent with CESA for the proposed Project, the Yurok Tribe will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE TO INTERESTED PARTIES
July 22, 2011**

**PRIORITIZATION: CHEMICALS FOR
CONSULTATION BY THE
CARCINOGEN IDENTIFICATION
COMMITTEE**

This notice announces the beginning of a 60-day public comment period on the 39 chemicals listed below. These chemicals will be discussed at the October 2011 meeting of the Proposition 65 Carcinogen Identification Committee (CIC). The CIC is the state's qualified experts on carcinogenicity for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). The CIC's October meeting is scheduled for Wednesday and Thursday, October 12 and 13, 2011. The CIC will provide the Office of Environmental Health Hazard Assessment (OEHHA) with advice on the prioritization of these 39 chemicals for possible preparation of hazard identification materials. At a later date, OEHHA will select chemicals for preparation of hazard identification materials and announce those decisions in a separate notice. No listing decisions will be made for these chemicals at the October 12 and 13 meetings.

OEHHA is the lead agency for the implementation of Proposition 65. OEHHA has screened several hundred chemicals in the OEHHA tracking database for evidence of cancer hazard as well as potential human exposure in California. The initial screening follows the procedure described in the 2004 "Process for Prioritizing Chemicals for Consideration under Proposition 65 by the State's Qualified Experts," which is available at http://www.oehha.ca.gov/prop65/CRNR_notices/state_listing/pdf/finalPriordoc.pdf

OEHHA applied both a human and animal data screen to all of the chemicals in the OEHHA tracking database. These screens were discussed at the November 17, 2007 and November 5, 2008 meetings of the CIC. OEHHA conducted a preliminary toxicological evaluation for the chemicals that passed the two screens. Based on this preliminary evaluation, OEHHA identified the 39 chemicals listed below for committee discussion, advice and possible preparation of hazard identification materials for consideration at future CIC meetings.

The 39 chemicals are:

- Abacavir and Its Salts
- Acetaminophen
- Bisphenol A

- Butyl Benzyl Phthalate
- Butylated Hydroxytoluene
- C.I. Disperse Yellow 3
- Chloroalkyl Ethers
- Chloropicrin
- Clodinafop–Propargyl
- Coumarin
- Dapsone
- Dibenzanthracenes and Dibenz[*a,c*]anthracene
- 3,3'–Dichlorobenzidine–Based Compounds Metabolized to 3,3'–Dichlorobenzidine
- 2,4–Dichlorophenoxyacetic acid (2,4–D) and Its Salts and Esters
- Dicloran
- Dinitroaniline Pesticides and Prodiamine and Trifluralin
- Entecavir
- Flonicamid
- Fluazinam
- Hexythiazox
- Hydralazine and Its Salts
- Isophosphamide
- Metofluthrin
- Mixtures Containing Pentabromochlorocyclohexane
- N–Methyl–N–Nitroso–1–Alkylamines and N–Methyl–N–Nitroso–1–Octanamine, N–Methyl–N–Nitroso–1–Decanamine, N–Methyl–N–Nitroso–1–Dodecanamine, and N–Methyl–N–Nitroso–1–Tetradecanamine
- N–Nitroso–N–Methylaniline
- N–Methylpyrrolidone
- 6–Nitrobenzimidazole
- Pentachloronitrobenzene
- Pimecrolimus and Tacrolimus
- Pivalolactone
- Pyraflufen Ethyl
- Raloxifen and Its Salts
- Stavudine
- Thiophanate Methyl
- Topoisomerase II Inhibitors
- Triazole Antifungal Agents
- 2,4,6–Trimethylaniline and Its Salts
- Tris(2–Ethylhexyl) Phosphate

The CIC meeting will be held in the Sierra Hearing Room at the Cal/EPA Headquarters building, 1001 I Street, Sacramento, California. The meetings will begin each day at 10:00 a.m. and will last until 5:00 p.m. on Wednesday and until all business is conducted or until

5:00 p.m. on Thursday. The agenda for the two–day meeting will be provided in a future public notice published in advance of the meeting.

Copies of the summaries of available scientific information on the chemicals and related attachments are available on OEHHHA's web site or may be requested by calling (916) 445–6900.

Interested parties may provide comment on the extent of the scientific evidence pertaining to the selection of any of these chemicals for possible preparation of hazard identification materials. **OEHHHA must receive comments and any supporting documentation by 5:00 p.m. on Tuesday, September 20, 2011.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to coshita@oehha.ca.gov. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS–19B
Sacramento, California
95812–4010
Fax: (916) 323–8803
Street Address: 1001 I Street
Sacramento, California 95814

OEHHHA will organize and index the comments received and forward the information to the CIC members prior to the meeting on October 12 and 13.

DECISION NOT TO PROCEED

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF DECISION NOT TO PROCEED California Code of Regulations Title 17, Division 1

Notice is hereby given, as specified in Government Code section 11347, that the California Department of Public Health (CDPH) will not proceed with the proposed amendments to Title 17, Division 1, Chapter 2, Subchapter 1, Group 2, regarding Clinical Laboratory Personnel Standards, published in the California Regulatory Notice Register 2010 (No. 33–Z, August 13, 2010, pages 1251–1254) and withdraws this proposed action from further consideration. CDPH may initiate a new proposal to adopt regulations pertaining to the same or similar subject matter at a later date, with notice as required by law.

CDPH will also publish this Notice of Decision Not to Proceed on the Department's website at www.cdph.ca.gov.

RULEMAKING PETITION DECISIONS

DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Division 3, Department of Corrections and Rehabilitation

PETITIONER

George W. Vetter

AUTHORITY

Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the California Department of Corrections and Rehabilitation (CDCR).

PC Section 5054 vests with the Secretary of the CDCR, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.

Under authority established in PC Section 5058 the Secretary may prescribe and amend regulations for the administration of prisons and for the administration of the parole of persons.

CONTACT PERSON

Please direct any inquiries regarding this action to Timothy M. Lockwood, Chief, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, or telephone (916) 445-2269.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Petitioner requests the Department of Corrections and Rehabilitation (Department) amend Section 3544 of the California Code of Regulations, Title 15, Division 3 to add new language to establish that any employee of the Department accused of violating the provisions of Section 3544 subsection (b) regarding the use of continuous electronic monitoring equipment to eavesdrop or record conversations shall be suspended without pay pending investigation of the allegations, and that the workplace of the accused employee shall be searched for incriminating evidence.

Petitioner states that this petition is being filed on behalf of an anonymous parolee acquaintance who stated to the petitioner that his parole agent eavesdropped on him using the continuous electronic monitoring equipment the parolee is required to wear on his ankle.

Petitioner contends the current language contained in Section 3544 subsection (b) is "too vague and ambiguous, and is unenforceable on its face" and that the additional proposed language is necessary to protect the safety and rights of parolees and to prevent employee misconduct.

DEPARTMENT DECISION

The Secretary denies the petition to amend Section 3544. The Department contends that the language contained in Section 3544 subsection (b) is both clear and unambiguous in its prohibition of eavesdropping or recording conversations using continuous electronic monitoring equipment.

Additionally, although Section 3544 subsection (b), and the Penal Code sections which authorize continuous electronic monitoring (PC Sections 3010 through 3010.9), do authorize the Department to utilize monitoring technology that is capable of monitoring or recording a conversation, the monitoring devices utilized by the Department pursuant to Section 3544 do not have this capability. Historically, the monitoring technology purchased by the Department has never had voice monitoring capabilities. The supervising parole agent is able to track and monitor only the whereabouts of the parolee. Therefore, the Department contends that the anonymous allegations contained in the petition appear to be groundless.

DEPARTMENT OF SOCIAL SERVICES

July 11, 2011

Mr. Bob Fellmeth
Mr. Ed Howard
Children's Advocacy Institute
717 K Street, Suite 509
Sacramento, CA 95814

VIA CERTIFIED MAIL

Steve Keane
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

Dear Messrs. Fellmeth, Howard and Keane:

SUBJECT: Petition to Amend Regulations Related to SB 39 and CAPTA Public Disclosure Requirements

Pursuant to Government Code § 11340.7, the Department accepts in part and denies in part the petition filed by the Children's Advocacy Institute (CAI) on June 9, 2011, requesting amendments to the Manual of Policies and Procedures (regulations) related to the child death and near death disclosure requirements embodied in California Senate Bill 39 (SB 39) and the federal Child Abuse Prevention and Treatment Act known as CAPTA. Interested persons may obtain a copy of your petition from the Department pursuant to Government Code section 11340.7 by contacting the Office of Regulations Development at (916) 657-2586. Additionally, this decision shall be transmitted to the Office of Administrative Law, pursuant to Government Code section 11346, for publication in the California Regulatory Register at the earliest practicable date.

The current SB 39 regulations were adopted to implement the State statutory provisions enacted by SB 39 as informed by the paramount federal law on the same subject. Federal law, best sets forth the purpose of both, which is to provide meaningful public disclosure of information related to child deaths (and in the case of CAPTA, near child deaths) that result from abuse and/or neglect while at the same time protecting the confidentiality of other family and child welfare information unrelated to the fatality. The right to confidentiality is set forth in the federal CAPTA as follows:

42 USC § 5106a(b)(2)(A)(x) requires "public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality . . .".

While 42 USC § 5106a(b)(2)(A)(viii) requires states to ensure "methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this subchapter and subchapter III of this chapter shall only be made available to . . ." a limited list of parties by exception.

Consistent with this federal foundation, the California Legislature adopted SB 39 which similarly attempts to balance the general obligation to maintain family and child confidentiality while making an exception in order to publicize child deaths that are the result of abuse

or neglect. In furtherance of both the federal and state law, the California Department of Social Services (CDSS) adopted the SB 39 regulations pursuant to authority provided under Welfare and Institutions Code (W&IC) §§ 10553, 10554 and 10850.4(e)(2) for the purposes of its administration of public social services and specifically for the implementation of CAPTA public disclosure requirements.

The Department adopted the original regulations after substantial input from your organization and others. We continue to value and appreciate CAI's concerns and comments related to the regulations. Your input is important and has prompted many discussions. Additionally, the CDSS has reconvened a workgroup composed of department and county staff, other interested parties and advocates such as CAI to specifically address reviewing and modifying the SB 39 regulations. Many of these same participants, including your organization, participated in the initial workgroup and development of the current SB 39 regulations that went through the public process of regulatory promulgation. CDSS hopes that your organization will re-evaluate its decision to discontinue participating in the SB 39 regulations workgroup. CDSS believes that the workgroup and the Administrative Procedure Act (APA) process will provide regulations that will allow for as much disclosure as possible and be clearer and easier to implement than the amendments you have proposed in this Petition.

With this background, let me turn now to the specific responses to each of the issues raised in the petition.

First, the Department accepts the petition insofar as it requests a change in the overbroad reference to law enforcement rather than the District Attorney as is specified in SB 39. The Department denies the rest of the petition for the reasons hereinafter set forth with respect to each specific item.

MPP § 31-502.42 — Improper requirement to consult with law enforcement—Granted

CDSS appreciates your acknowledgement that this issue is one on which we have reached agreement. CDSS does not believe that consultation with local law enforcement rather than only the District Attorney would necessarily impede the release of SB 39 information. However, the language in SB 39 is clear, and for this reason the regulation, however well meaning, must yield to the statute's terminology. While the District Attorney may properly include local law enforcement in its determination of whether or not the release of specific information would impede a law enforcement investigation; its decision cannot be supplanted by a decision of local law enforcement. Accordingly, this request in your petition is granted.

MPP §§ 31–502.2 *et seq.* — Improper causal link between abuse/neglect and child fatality— Denied.

The CDSS reviewed your comments in prior correspondence and in your petition regarding the causation issue in the context of federal and state law. It appears that we all agree that a causal link is required. However, far from clear is whether the Legislature intended that the causal link be (1) incidental, (2) contributing, (3) more likely than not, or (4) the conclusive cause of death. Your proposed amendment does not address the issue by simply adopting the unclear verbiage of the statute itself. This would provide little illumination, clarification, or guidance, which is the purpose of the regulations, that are intended to implement the statute.

Federal law provides that child welfare information is confidential except with respect to child fatalities that are the result of abuse or neglect (42 U.S.C. §5106a(b)(2)(A)(x)). Consistent with federal law, SB 39 is replete with references to the fact that child fatality information is to be released when it “results from” or is “caused by” abuse or neglect. While we agree with CAI’s apparent view that the statute may not require causation be proved beyond a reasonable doubt, we disagree that the presence of incidental abuse or neglect without any evidence that it led to the child’s death automatically triggers disclosure and public condemnation of the parents along with public release of confidential information about siblings.

Consistent with federal law, W&IC section 10850.4(b) provides that information is to be released in “cases in which abuse or neglect leads to” a child’s death. This language, in addition to the rest of SB 39, demonstrates that a causal connection must exist between the instance of abuse or neglect and the child’s fatality. “Instance of abuse or neglect” does not mean abuse or neglect that occurred in the past that has no connection to the fatality. W&IC section 10850.4(b) then sets forth the entities that may make a finding of abuse or neglect that led to the fatality thereby requiring disclosure of SB 39 information. Consequently, it is clear to CDSS that causation is necessary under both federal and state law.

Again, the degree of causation is unclear and we believe this issue needs to be further analyzed and, with input from the SB 39 regulations workgroup, and the regulations modified, in accordance with the APA, as indicated by that analysis. Simply inserting the unclear statute verbatim into the regulations as CAI’s petition suggests does little to help resolve this question and is therefore denied.

MPP §§ 31–502.33 and 31–502.34 — No disclosures if perpetrator is not the parent, guardian or foster parent— Denied

We understand your position that the identity of the perpetrator should not be tied to what information is re-

leased. However, the law is clear that only information that pertains to a child fatality that was the result of abuse or neglect is subject to public disclosure (See W&IC § 826.7). While the release of documents based on the identity of the perpetrator may not be the best method to obtain this goal, the regulation was an attempt to ensure that only pertinent information is released. This is consistent with federal and state laws that safeguard the confidentiality of child welfare information that is unrelated to a child fatality resulting from abuse or neglect (See 42 U.S.C. § 5106a(b)(2)(A)(viii)). Again, it is within this context of privacy that the exception for public disclosure of child fatality information is exercised (See 42 U.S.C. § 5106a(b)(2)(A)(x)). This balancing of confidentiality with necessary public disclosure of child fatality information is required by federal law and embodied in SB 39 legislation. The implementing regulations must do the same.

The specific examples for which “disclosure requirements would not be triggered under DSS regulations” are not accurate.

- The first example of a child repeatedly abused by mother’s boyfriend and dies would, at a minimum, be investigated for allegations that the death was the result of the negligence of the mother. If substantiated, the information about the fatality would be subject to public disclosure.
- The second example would lead to similar actions taken.
- The third example of the aunt taking a child on a camping trip does not provide enough information to establish whether or not an allegation of neglect would result so will not be addressed here.
- The last example of the foster home where the foster parents and adult son systematically abuse the child who dies would certainly be investigated by both the child welfare agency and Community Care Licensing. If substantiated by the child welfare agency, the information about the fatality would be subject to public disclosure.

This may be an example of the lack of clarity in the current regulations or perhaps CAI’s lack of clear understanding of the child welfare services processes and regulations. CDSS acknowledges that the regulations do not clearly set forth this intent, nor do CAI’s suggested amendments address the issue.

To the extent that amending regulations would help clarify this intent, CDSS is willing to do so. CDSS, the SB 39 workgroup, and the APA process will address this need for clarity. For these reasons, this portion of your petition is denied.

MPP § 31–502.35 — Disclosures related to non-residential licensed childcare providers — Denied.

The CDSS believes that the concern here is unwarranted. The intent of this regulation was to facilitate public disclosure of child fatality information in instances where the child dies in the care of a licensed childcare provider. Non-residential licensed childcare provider information may be helpful in understanding the circumstances surrounding a child fatality, but this information is not housed in the child’s case file. Neither the SB 39 statute nor implementing regulations require that the county release any information that is not in the child’s case file. (See W&IC § 10850.4(o)). As a result, that information would not be released and the public may not know how to go about finding it. For that reason, CDSS added this regulation to provide an avenue for obtaining this licensing information. CDSS does not see how this regulation could impede the otherwise authorized release of SB 39 information. Nor has CDSS been made aware of any problems in this area. Therefore, this request is denied.

Unlawful tracking and disclosure of near fatalities under Child Abuse Prevention and Treatment Act (CAPTA)—Denied.

Your final issue is related to the tracking and disclosure of near fatalities pursuant to CAPTA. CDSS plans to address this area with the workgroup at the conclusion of our endeavor currently underway related to the SB 39 regulations. Your organization’s petition does not appear to ask for regulatory action and no regulation currently exists with respect to near fatalities therefore this request is denied.

Reconvening of the SB39 regulations workgroup

Thank you for memorializing your concerns and bringing issues regarding the SB 39 regulations to our attention. Your input supports CDSS and the workgroup’s efforts to closely review and modify the regulations for clarity as indicated by that review, although not necessarily in the manner you suggest for each issue. We note that the recent reconvening of the SB 39 regulations workgroup has revealed additional issues from other interested parties. The workgroup will continue to explore those issues and CAI’s concerns, as well as possible solutions. We welcome your continued participation in the workgroup and the APA process that will address the issues discussed herein as well as others that arise in this effort.

Thank you once again for your informed contributions, which we anticipate will continue in the on-going SB 39 regulations workgroup and the attendant APA process.

Sincerely,

/s/

SUSANE DIEDRICH
Acting Chief Counsel

DEPARTMENT OF TRANSPORTATION

July 6, 2011

Mr. Francis E. Coats
3392 Caminito Avenue
Yuba City, CA 95991

Dear Mr. Coats:

Thank you for your continuing interest in the California Department of Transportation’s (Caltrans) implementation of California Streets and Highways Code section 84.5. On June 6, 2011 you sent a second request to Caltrans for the formal adoption of a regulation interpreting the term “navigable river” as used in California Streets and Highways Code section 84.5 pursuant to Cal, Govt. C. section 11340.6. That correspondence proposed that “the term ‘navigable river’ as it appears in section 84.5” be defined “as follows: . . .

- a. A waters or stream of sufficient capacity to transport the products of the country; and,
- b. Waters and streams declared navigable in sections 101, 102, 103, 104, 105, 106 of the Streets and Highways Code; and
- c. A waterway of sufficient capacity for pleasure boating.”

Your e-mail of June 20, 2011 clarified that your request was for a definition “something like:

‘Navigable river as used in Streets and Highways Code section means (a) a body of water suitable for transportation of the products of the country; and, (b) a body of water identified in Streets and Highways Code sections 101 through 106; and (c), a body of water suitable for navigation in small boats.’ ”

Your proposed definitions are not identical, but assuming that subsection b. in the former and (b) in the latter refer to the California Harbors and Navigations Code rather than the Streets and Highways Code,* they are not dissimilar from the definition of “navigable waters” that appears in Caltrans’ Highway Design Manual at chapter 800 which also incorporates a federal standard, legislatively enumerated rivers, and the California common law definition. The Project Development Procedures Manual (Gold Book) is currently in the process of being harmonized with the Highway Design

*At your convenience, please confirm that this is indeed the case; some of the Streets and Highways Code provisions in Chapter 1, Article 3 pertain to bridges within the Caltrans’ control.

Manual. As a courtesy, copies of Gold Book Revisions will be provided to you.

**DECISION REGARDING PETITION FOR
SECOND REQUEST TO PROMULGATE A
REGULATION DEFINING "NAVIGABLE RIVER"
AS USED IN CAL. STS. & HYS. § 84.5**

This letter is also to inform you of Caltrans' formal response to your second request under section 11340.7 of the California Government Code.

Pursuant to section 11340.7 of the California Government Code, Caltrans declines to "adopt a regulation interpreting the term "navigable river" as it appears in section 84.5 of the Streets and Highways Code, as follows:

"Navigable river," as used in Streets and Highways Code section 84.5, means:

- a. A waters or stream of sufficient capacity to transport the products of the country; and,
- b. Waters and streams declared navigable in sections 101, 102, 103, 104, 105, 106 of the Streets and Highways Code; and,
- c. A waterway of sufficient capacity for pleasure boating."

The substantive reasons for denying your petition are:

As you note on page 6 of your letter dated June 4, 2011, "[t]he plain meaning of section 84.5 is clear." As such, it requires no clarification. This fact is further underscored by the fact that Caltrans received an opinion from the California Attorney General's office on June 13, 2011 which provides an unambiguous definition of a "navigable river" drawn from *People ex rel. Baker v. Mack* (1971) 19 Cal.App.3d. 1040, 1050. Caltrans cannot displace a definition provided by the Attorney General, particularly given that it is taken verbatim from an appellate court decision. Caltrans will instead ensure that that definition is included in the guidance provided to its districts, its personnel, and any interested member of the public.

Caltrans is additionally concerned that the regulatory language you proposed (twice) refers to sections 101–106 of the California Streets and Highways Code in contrast to the body of your June 4, 2011 letter which refers to sections 101–106 of the California Harbors and Navigation Code. Since sections 101 and 106 of the former code refer specifically to bridges, Caltrans is reluctant to proceed absent clarification from you.

A copy of this correspondence will be transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register at the earliest practicable date. It will identify you as the requesting party (your personal identifying information will be re-

dacted) and Caltrans as the responding agency. Copies of the petition and ensuing documentation will be made available upon request.

If you have any additional questions, comments, or concerns, please contact Matthew B. George at (916) 654–2630.

Sincerely,

/s/

RICHARD D. LAND

Acting Chief Deputy Director

Enclosure

c: Office of Administrative Law

**AVAILABILITY OF INDEX OF
PRECEDENTIAL DECISIONS**

EDUCATION AUDIT APPEALS PANEL

Notice of Availability of Precedential Decision Index
(Government Code Section 11425.60)

Notice is hereby given that the Education Audit Appeals Panel (EAAP) maintains an index of the determinations made in the decisions EAAP has designated as precedential. The index is available on the Internet at <http://www.eaap.ca.gov>, following the text of the "Appeals" section.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

File# 2011–0615–01

BOARD OF EQUALIZATION

Wine

The Board of Equalization submitted this rulemaking action to clarify the statutory definition of wine under

Business and Professions Code section 23007 for purposes of delineating wine-based alcoholic beverages that are subject to the excise tax for wine and wine-based alcoholic beverages that are subject to the excise tax for distilled spirits under California's Alcoholic Beverage Tax Law.

Title 18

California Code of Regulations

ADOPT: 2558.1

Filed 07/08/2011

Effective 08/07/2011

Agency Contact:

Richard E. Bennion (916) 445-2130

File# 2011-0613-01

BOARD OF PILOT COMMISSIONERS**Incident Review Process**

This regulatory action amends the incident review process to transfer authority from the Incident Review Committee to the Board for final decisions and any corrective action for navigational incidents involving a pilot or inland pilot. These amendments are made to conform the existing regulations to statutory changes made by SB 1627 (Wiggins) which became effective on January 1, 2009.

Title 10

California Code of Regulations

AMEND: 210, 221

Filed 07/13/2011

Effective 08/12/2011

Agency Contact: Terri Toohey (916) 768-5638

File# 2011-0613-03

CALIFORNIA HIGHWAY PATROL**Pupil Activity Buses**

This regulatory action revises several sections in Title 13 of the California Code of Regulations and adopts one new section. The purpose of this rulemaking is to establish periodic safety inspections as well as the fees required for the inspections of Pupil Activity Buses. Pupil Activity Buses are a new classification established by Assembly Bill 830, Chapter 649, Statutes of 2008. This statute exempts motor vehicles designed to carry not more than 25 persons including the driver, from the definition of school bus when operated by a charter-party carrier of passengers; transporting school pupils to or from school related activities. These amendments/adoptions also adopt by reference the definition of "Motor Vehicle Chassis" as defined in the 1972 edition of SAE Standard J687c.

Title 13

California Code of Regulations

ADOPT: 1231.2 AMEND: 1200, 1201, 1217, 1221, 1222, 1232

Filed 07/06/2011

Effective 08/05/2011

Agency Contact: Lee Bretney (916) 843-3400

File# 2011-0531-03

CALIFORNIA HORSE RACING BOARD**Coupling of Horses**

This rulemaking action eliminates the requirement of coupling of horses in a horse race when the horses are owned in whole or part by the same person or entity. In place of the horse coupling requirement, the rulemaking adds a requirement of disclosure of multiple horse ownership or common trainer in racing materials and over the public address system. The rulemaking also specifies procedures to be followed when a horse is removed from the wagering pool for parimutuel wagering purposes after wagering has begun.

Title 4

California Code of Regulations

AMEND: 1606, 1954.1, 1957, 1959, 1974, 1976, 1976.8, 1976.9, 1977, 1978, 1979, 1979.1

Filed 07/12/2011

Effective 08/11/2011

Agency Contact: Harold Coburn (916) 263-6397

File# 2011-0628-01

DEPARTMENT OF CORPORATIONS**Private Fund Adviser Exemption**

This emergency rulemaking action extends for 180 days the effectiveness of the expiring federal-law Securities and Exchange Commission registration exemption for investment advisers who rely upon and meet the criteria of that expiring federal exemption.

Title 10

California Code of Regulations

AMEND: 260.204.9

Filed 07/07/2011

Effective 07/21/2011

Agency Contact: Karen Fong (916) 322-3553

File# 2011-0617-01

DEPARTMENT OF CORRECTIONS AND REHABILITATION**Recall of Commitment**

This emergency regulatory action concerns the recall of commitment and was submitted to OAL by the California Department of Corrections and Rehabilitation (CDCR) pursuant to Penal Code section 5058.3 as operationally necessary. This action adopts and amends provisions governing the recall of commitment for eli-

gible inmates who have been determined to be permanently medically incapacitated or terminally ill pursuant to revisions to Penal Code section 1170(e). These regulatory amendments revise the terminally ill provisions (section 3076.1) which relate to Penal Code section 1170(d) and adopt provisions which respect to the permanently medically incapacitated inmates as provided in Penal Code section 1170(e).

Title 15

California Code of Regulations

ADOPT: 3076.4, 3076.5 AMEND: 3076, 3076.1, 3076.2, 3076.3

Filed 07/07/2011

Effective 07/07/2011

Agency Contact: Rosie Ruiz (916) 445-2309

File# 2011-0602-04

DEPARTMENT OF FOOD AND AGRICULTURE
Plants

Section 3658 establishes the list of plants that shall meet the requirements of standards for movement and certification. This regulatory action adds 50 new host plants to the list to provide authority for the State to specifically regulate the movement of these new host plants to minimize the destructive impact of Pierce's disease and its vectors to arrest the artificial spread of the disease and its vector, the glassy-winged sharpshooter (GWSS) to additional areas.

Title 3

California Code of Regulations

AMEND: 3658

Filed 07/08/2011

Effective 08/07/2011

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2011-0603-01

DEPARTMENT OF WATER RESOURCES
Process Water

The Department of Water Resources submitted this certificate of compliance action to make permanent the emergency regulations adopted in OAL File No. 2010-1207-01E. These regulations implement portions of the Water Conservation Act of 2009 (enacted, SBX77 (2009)) by adopting sections 596 through 596.5 to title 23 of the California Code of Regulations. SBX77 requires the state to achieve a 20% reduction in California urban per capita water use by December 31, 2020. This goal is to be achieved substantially through incremental water use reductions by urban retail water suppliers until the 20% reduction is reached. Urban retail water suppliers are allowed to exclude "process water" from the calculation of gross water use if the supplier

meets certain criteria and water use targets, based on the criteria and calculation methods in these regulations.

Title 23

California Code of Regulations

ADOPT: 596, 596.1, 596.2, 596.3, 596.4, 596.5

Filed 07/08/2011

Effective 07/08/2011

Agency Contact: Kent Frame (916) 651-7030

File# 2011-0616-01

FAIR POLITICAL PRACTICES COMMISSION
Complaints

The Fair Political Practices Commission (FPPC) submitted this action to amend title 2, California Code of Regulations, section 18360, which provides for sworn complaints or FPPC-instigated investigations into alleged violations of the Political Reform Act. The amendments in this action provide for the FPPC executive director to ensure that FPPC staff not disclose information regarding a complaint or FPPC-instigated investigation except as specified until at least five business days after the FPPC issues a required 14-day notification to the complainant and the subject of the complaint, or until the subject of an investigation is informed or sent notification of the investigation. Other, minor substantive amendments related to complaints have also been made.

Title 2

California Code of Regulations

AMEND: 18360

Filed 07/06/2011

Effective 08/05/2011

Agency Contact:

Virginia Latteri-Lopez (916) 324-3854

File# 2011-0705-01

FISH AND GAME COMMISSION

Incidental Take of Mountain Yellow-Legged Frog During Candidacy

This is the second readopt of a prior emergency regulatory action that allowed the incidental take of Mountain Yellow-legged Frog during its candidacy for listing as an endangered or threatened species under the California Endangered Species Act (CESA), in accordance with Fish and Game Code section 2084.

This action provides for take incidental to seven different activities (e.g., scientific collection, fire prevention, water storage, etc.). The Fish & Game Commission has historically relied on the authority in section 2084 to permit take of candidate species on numerous occasions, most recently in 2009.

Title 14
California Code of Regulations
ADOPT: 749.6
Filed 07/12/2011
Effective 07/12/2011
Agency Contact: Sheri Tiemann (916) 654-9872

File# 2011-0526-01
FISH AND GAME COMMISSION
Mammal Hunting — 2011

This action adopts the Fish and Game Commission's mammal hunting regulations for 2011.

Title 14
California Code of Regulations
ADOPT: 708.1, 708.2, 708.3, 708.4, 708.5, 708.6, 708.7, 708.8, 708.9, 708.10, 708.11, 708.12, 708.13, 708.14, 708.15, 708.16, 708.17 AMEND: 360, 361, 362, 363, 364, 365, 366, 353, 354, 478.1, 702, 711 REPEAL: 708
Filed 07/08/2011
Effective 07/08/2011
Agency Contact: Jon Snellstrom (916) 654-9868

File# 2011-0630-01
MANAGED RISK MEDICAL INSURANCE BOARD
Modify Healthy Families Program Dental Plan Benefits

The Healthy Families Program (HFP) is California's state- and federally-funded Children's Health Insurance Program (CHIP) established pursuant to title XXI of the federal Social Security Act. The Managed Risk Medical Insurance Board (Board) administers the HFP. The HFP provides comprehensive health, dental and vision insurance to low-income children under the age of 19 with family income above the Medi-Cal income eligibility levels. Approximately two-thirds of the funding for HFP is provided by the federal CHIP. This emergency regulatory action modifies the HFP dental benefit by eliminating the dental coverage cap of \$1500.

Pursuant to Insurance Code section 12693.22 the emergency regulatory action is deemed to meet the emergency standard and is exempt from OAL review. The certificate of compliance is not exempt from OAL review.

Title 10
California Code of Regulations
AMEND: 2699.6707
Filed 07/08/2011
Effective 07/08/2011
Agency Contact: Alexa Malik (916) 323-0421

File# 2011-0524-03
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
Cranes and Other Hoisting Equipment

This regulatory action adopts new Article 15 titled "Cranes and Derricks in Construction" within Subchapter 4 "Construction Safety Orders." Article 15 contains new regulations that are at least as effective as the federal standards recently adopted that update and specify industry work practices necessary to protect employees during the use of cranes and derricks in construction. This regulatory action is exempt from Articles 5 and 6 of the Administrative Procedure Act, and therefore, exempt from OAL review pursuant to Labor Code section 142.3.

Title 8
California Code of Regulations
ADOPT: 1610 (section heading), 1610.1, 1610.2, 1610.3, 1610.4, 1610.5, 1610.6, 1610.7, 1610.8, 1610.9, 1611 (section heading), 1611.1, 1611.2, 1611.3, 1611.4, 1611.5, 1612 (section heading), 1612.1, 1612.2, 1612.3, 1612.4, 1613 (section heading), 1613.1, 1613.2, 1613.3, 1613.4, 1613.5, 1613.6, 1613.7, 1613.8, 1613.9, 1613.10, 1614, 1615 (section heading), 1615.1, 1615.2, 1616 (section heading), 1616.1, 1616.2, 1616.3, 1616.4, 1616.5, 1616.6, 1616.7, 1617 (section heading), 1617.1, 1617.2, 1617.3, 1618 (section heading), 1618.1, 1618.2, 1618.3, 1618.4, 1619 (section heading), 1619.1, 1619.2, 1619.3, 1619.4, 1619.5 AMEND: 1694, 2940.7, 6060
Filed 07/07/2011
Effective 07/07/2011
Agency Contact: Marley Hart (916) 274-5721

File# 2011-0608-03
PHYSICIAN ASSISTANT COMMITTEE
Notification to Consumers

This action specifies the contents of the notice that licensees providing medical services must provide to patients and the manner in which the notice may be provided. The regulation implements Business and Professions Code section 138 which provides that every board in the Department of Consumer Affairs must adopt such a regulation to advise patients of state licensing.

Title 16
California Code of Regulations
ADOPT: 1399.547
Filed 07/12/2011
Effective 08/11/2011
Agency Contact: Glenn L. Mitchell (916) 561-8783

File# 2011-0531-04

PUBLIC EMPLOYEES RETIREMENT SYSTEM
Publicly Available Pay Schedule and Written Labor Policy or Agreement

In this regulatory action, the California Public Employees' Retirement System adopts and amends regulations pertaining to "compensation earnable," as applied to the calculation of retirement benefits, pursuant to Government Code sections 20630, 20636, and 20636.1. Specifically, the regulations implement the requirements for compensation earnable that "payrate" and "special compensation" documents be public records available for public scrutiny. The "subject of regulations" is: "Publicly Available Pay Schedule and Written Labor Policy or Agreement."

Title 2
California Code of Regulations
ADOPT: 570.5
AMEND: 571(b)
Filed 07/11/2011
Effective 08/10/2011
Agency Contact:
Christina Nutley (916) 795-2397

File# 2011-0608-04

SECRETARY OF STATE
Online Statement of Information Filing-Free Electronic Copy

This regulatory action moves established copying fees from an existing section to a separate section that specifically addresses copy fees including the rule that no fee will be charged for issuing an electronic copy of a Statement of Information to the filer as part of an online filing transaction. This action also clarifies and standardizes terms used within the existing section.

Title 2
California Code of Regulations
ADOPT: 21903.5 AMEND: 21903
Filed 07/11/2011
Effective 08/10/2011
Agency Contact:
Anika Van Eaton (916) 653-6944

File# 2011-0610-01

STATE ALLOCATION BOARD
Leroy F. Greene School Facilities Act 1998 — Fiscal Crisis Regulations

This certificate of compliance makes permanent the prior emergency amendments to four sections in Title 2 (OAL file no. 2010-1224-01E). These regulatory amendments extended by six months until July 1, 2011 the sunset date of three sections that became inoperative on January 1, 2011. Extending these sections allowed

"inactive" status to continue for approved but unfunded SFP projects during the State of California's continuing fiscal crisis. The extension also kept financial hardship determinations in effect for six more months for previously approved projects which the State had been unable to fund due to the lack of AB 55 loans. This action responded to the Pooled Money Investment Board's temporary halt of disbursements for capital projects, including the construction of public schools, on December 17, 2008. The amendments continued the SAB's authority for an additional year to help protect school facility projects from expiring under two programs: (1) Critically Overcrowded School Facilities Program (COS Program), and (2) Charter School Facilities Program (CSFP). Additionally these amendments gave SAB discretion to waive the existing requirement in section 1859.81(d) for SAB-approved financial hardship determinations to be re-reviewed every 180 days by the Office of Public School Construction, if SAB placed an approved school facility project on a newly adopted "Unfunded List (Lack of AB 55 Loans)" list for more than 180 days. "Unfunded List (Lack of AB 55 Loans)" projects are those that receive unfunded approvals due to the state's inability to provide AB 55 loans (inability to provide loans from the Pooled Money Investment Account).

Title 2
California Code of Regulations
AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2
Filed 07/06/2011
Agency Contact: Robert Young (916) 375-5939

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN February 16, 2011 TO
July 13, 2011**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2
07/11/11 ADOPT: 21903.5 AMEND: 21903
07/11/11 ADOPT: 570.5 AMEND: 571(b)
07/06/11 AMEND: 1859.2, 1859.81, 1859.148.2,
1859.166.2
07/06/11 AMEND: 18360
07/05/11 AMEND: 649.3, 649.18, 649.20, 649.24
06/30/11 AMEND: 633.9

06/21/11 REPEAL: 59152
 06/07/11 AMEND: 640
 05/12/11 AMEND: 1859.83
 05/04/11 ADOPT: 1190, 1190.01, 1190.02,
 1190.03, 1190.04, 1190.05 AMEND:
 1181.1, 1181.2
 04/28/11 AMEND: 18427.1
 04/28/11 AMEND: 1859.90.2
 04/27/11 AMEND: 1859.76
 04/21/11 REPEAL: 18420.5
 04/21/11 AMEND: 18465
 04/21/11 ADOPT: 1859.90.2 AMEND: 1859.90.2
 (renumbered to 1859.90.3), 1859.129,
 1859.197
 04/11/11 AMEND: 321
 04/06/11 AMEND: 59.3
 04/05/11 AMEND: 1859.2, 1859.81, 1859.148.2,
 1859.166.2
 04/01/11 AMEND: 18734
 03/30/11 AMEND: 64.5
 03/28/11 AMEND: 599.550
 03/09/11 ADOPT: 552
 03/08/11 ADOPT: 18451 REPEAL: 18451, 18452,
 18453
 03/07/11 AMEND: 18404.1
 03/07/11 AMEND: 18435, 18450.4
 03/03/11 AMEND: 1897
 02/23/11 AMEND: 18734, 18751
 02/17/11 AMEND: 18116
 02/17/11 AMEND: 18239
 02/17/11 ADOPT: 18401.1, 18435.5

Title 3

07/08/11 AMEND: 3658
 07/05/11 ADOPT: 3701, 3701.1, 3701.2, 3701.3,
 3701.4, 3701.5, 3701.6, 3701.7, 3701.8
 AMEND: 3407
 06/28/11 AMEND: 3591.15(a)
 06/27/11 AMEND: 3437(b)
 06/22/11 AMEND: 3435(b)
 06/15/11 AMEND: 3437(b)
 05/31/11 AMEND: 3437(b)
 05/11/11 ADOPT: 6446, 6446.1 AMEND: 6400,
 6452.4, 6624, 6860
 04/20/11 AMEND: 3434
 04/14/11 ADOPT: 3701, 3701.1, 3701.2, 3701.3,
 3701.4, 3701.5, 3701.6, 3701.7, 3701.8
 AMEND: 3407
 04/07/11 AMEND: 6445.5, 6448.1, 6449.1,
 6450.1, 6452.2, 6452.3, 6452.4, 6536,
 6626
 03/18/11 AMEND: 3434(b) and (c)
 03/18/11 AMEND: 3434(b)
 03/14/11 AMEND: 3408
 03/01/11 AMEND: 3558

02/17/11 AMEND: 3437

Title 4

07/12/11 AMEND: 1606, 1974, 1954.1, 1957,
 1959, 1976, 1976.8, 1976.9, 1977, 1978,
 1979, 1979.1
 07/01/11 ADOPT: 5000, 5010, 5020, 5021, 5030,
 5031, 5032, 5033, 5034, 5035, 5036,
 5037, 5038, 5039, 5050, 5051, 5052,
 5053, 5054, 5060, 5061, 5062, 5063,
 5064, 5065, 5066, 5080, 5081, 5082,
 5100, 5101, 5102, 5103, 5104, 5105,
 5106, 5107, 5120, 5130, 5131, 5132,
 5133, 5140, 5141, 5142, 5143, 5144,
 5150, 5151, 5152, 5153, 5154, 5170,
 5180, 5181, 5182, 5183, 5190, 5191,
 5192, 5193, 5194, 5200, 5210, 5211,
 5212, 5220, 5221, 5230, 5231, 5232,
 5240, 5241, 5250, 5251, 5260, 5265,
 5266, 5267, 5268, 5269, 5270, 5275,
 5280, 5281, 5282, 5283, 5290, 5291,
 5300, 5310, 5311, 5312, 5313, 5314,
 5315, 5320, 5321, 5330, 5340, 5350,
 5360, 5361, 5362, 5363, 5369, 5370,
 5371, 5380, 5400, 5410, 5411, 5420,
 5421, 5422, 5423, 5430, 5431, 5432,
 5433, 5434, 5435, 5440, 5450, 5460,
 5461, 5470, 5480, 5490, 5491, 5492,
 5493, 5494, 5500, 5510, 5520, 5530,
 5531, 5532, 5533, 5534, 5540, 5550,
 5560, 5570, 5571, 5572, 5573, 5580,
 5590
 06/24/11 ADOPT: 10030, 10031, 10032, 10033,
 10034, 10035, 10036
 06/21/11 AMEND: 1876
 06/15/11 ADOPT: 340 AMEND: 221, 222, 226,
 230, 288, 300 REPEAL: 262
 05/31/11 AMEND: 8078.2
 04/18/11 AMEND: 10302, 10315, 10317, 10320,
 10322, 10323, 10325, 10326, 10327,
 10328
 04/01/11 ADOPT: 10030, 10031, 10032, 10033,
 10034, 10035, 10036
 04/01/11 ADOPT: 5000, 5010, 5020, 5021, 5030,
 5031, 5032, 5033, 5034, 5035, 5036,
 5037, 5038, 5039, 5050, 5051, 5052,
 5053, 5054, 5055, 5056, 5060, 5061,
 5062, 5063, 5064, 5080, 5081, 5082,
 5100, 5101, 5102, 5103, 5104, 5105,
 5106, 5107, 5120, 5130, 5131, 5132,
 5140, 5141, 5142, 5143, 5150, 5151,
 5152, 5153, 5154, 5155, 5170, 5180,
 5181, 5182, 5183, 5190, 5191, 5192,
 5193, 5194, 5200, 5210, 5211, 5212,
 5220, 5230, 5231, 5232, 5240, 5250,

	5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, 5550, 5560, 5570, 5571, 5572, 5573, 5580, 5590		02/22/11 ADOPT: 42398 02/22/11 AMEND: 42375
		Title 7	
		03/17/11 ADOPT: 211.5 03/14/11 AMEND: 217	
		Title 8	
		07/07/11 ADOPT: 1610 (section heading), 1610.1, 1610.2, 1610.3, 1610.4, 1610.5, 1610.6, 1610.7, 1610.8, 1610.9, 1611 (section heading), 1611.1, 1611.2, 1611.3, 1611.4, 1611.5, 1612 (section heading), 1612.1, 1612.2, 1612.3, 1612.4, 1613 (section heading), 1613.1, 1613.2, 1613.3, 1613.4, 1613.5, 1613.6, 1613.7, 1613.8, 1613.9, 1613.10, 1614, 1615 (section heading), 1615.1, 1615.2, 1616 (section heading), 1616.1, 1616.2, 1616.3, 1616.4, 1616.5, 1616.6, 1616.7, 1617 (section heading), 1617.1, 1617.2, 1617.3, 1618 (section heading), 1618.1, 1618.2, 1618.3, 1618.4, 1619 (section heading), 1619.1, 1619.2, 1619.3, 1619.4, 1619.5 AMEND: 1694, 2940.7, 6060	
03/17/11	AMEND: 202, 210, 214, 246, 247, 248, 249, 252, 254, 264, 266, 267, 304, 332, 334, 335, 364, 385, 510, 533, 541, 545, 609		06/27/11 REPEAL: 10119, 10120
03/07/11	ADOPT: 8035.5		06/20/11 AMEND: 10250.1
03/07/11	ADOPT: 8078.2 AMEND: 8070, 8072		06/02/11 AMEND: 5154(j)(1)
03/03/11	REPEAL: 4002.2(a)		05/31/11 AMEND: 5155
02/16/11	AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162, 10164		05/20/11 AMEND: 341.13, 341.14, 341.16, 341.17
Title 5			05/03/11 AMEND: 3657
06/21/11	AMEND: 58771		05/02/11 AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464
06/20/11	ADOPT: 80048.9, 80048.9.4 AMEND: 80046.1, 80048.5, 80070.1, 80070.2, 80070.3, 80070.4, 80070.5, 80070.6 REPEAL: 80046, 80070.7, 80070.8		04/26/11 AMEND: 3209
05/23/11	ADOPT: 13075.3, 13075.6, 13075.7, 13075.8, 13075.9 AMEND: 13075.1, 13075.2, 13075.4 (renumbered from 13075.3), 13075.5 (renumbered from 13075.4)		04/18/11 ADOPT: 9792.5.0, 9792.5.1, 9792.5.2, 9792.5.3 AMEND: 9792.5
05/02/11	ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846		04/18/11 AMEND: 344.30
05/02/11	ADOPT: 80036.4 AMEND: 80034, 80036, 80036.1, 80036.2, 80036.3, REPEAL: 80036.5		04/13/11 AMEND: 3380
04/13/11	AMEND: 850, 851, 852, 853, 853.5, 854, 855, 857, 858, 859, 861, 862, 870 (now 862.5), 864, 864.5, 866, 868		03/28/11 AMEND: 3668(a)
04/12/11	ADOPT: 76020, 76140, 76212, 76240 AMEND: 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 76010, 76240		03/17/11 AMEND: 7102, 7104, 7160, 7178
03/28/11	ADOPT: 75010, 75100, 75500 AMEND: 74120, 74130, 74160, 74170		03/17/11 AMEND: 3207
03/24/11	ADOPT: 30001.5		03/07/11 AMEND: 3328
03/21/11	ADOPT: 10120 AMEND: 10070, 10071, 10075	Title 10	
03/15/11	ADOPT: 4800, 4801, 4802, 4803, 4804, 4805, 4806, 4807	07/13/11 AMEND: 210, 221	
03/01/11	ADOPT: 1216.1	07/08/11 AMEND: 2699.6707	
		07/07/11 AMEND: 260.204.9	
		06/30/11 AMEND: 2699.6700, 2699.6709, 2699.6721, 2699.6725	
		05/31/11 REPEAL: 2274.74, 2274.77	
		05/23/11 AMEND: 2698.99	
		05/16/11 AMEND: 2498.6	
		05/04/11 ADOPT: 260.004.1	

04/25/11 ADOPT: 1409.1, 1414, 1422.4, 1422.4.1, 1422.4.5, 1422.5, 1422.6, 1422.6.1, 1422.6.2, 1422.6.3, 1422.7, 1422.7.1, 1422.9, 1422.10, 1422.11, 1422.12, 1424, 1437, 1950.122, 1950.122.2.1, 1950.122.4, 1950.122.4.1, 1950.122.5, 1950.122.5.1, 1950.122.5.2, 1950.122.5.3, 1950.122.5.4, 1950.122.6, 1950.122.7, 1950.122.8, 1950.122.9, 1950.122.10, 1950.122.11, 1950.122.12, 1950.122.15, 1950.205.1, 1950.209, 1950.307 AMEND: 1404, 1409, 1411, 1430.5, 1431, 1433, 1436, 1454, 1550, 1552, 1557, 1950.003, 1950.122.2, 1950.123, 1950.204.3, 1950.204.4, 1950.301, 1950.314.8, 1950.316, 1950.317

04/18/11 AMEND: 2188.65, 2695.180

04/06/11 AMEND: 2498.4.9

04/06/11 AMEND: 2498.4.9

03/22/11 AMEND: 2498.4.9

03/16/11 ADOPT: 2632.13.1 AMEND: 2632.13

03/16/11 AMEND: 5500, 5501, 5505, 5506, 5507

03/03/11 ADOPT: 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596

Title 11

06/06/11 AMEND: 51.7

06/01/11 AMEND: Article 20, section 51.2

05/31/11 AMEND: Article 20, section 51.25

05/25/11 ADOPT: Article 20, section 51.27

05/24/11 AMEND: Article 20, section 51.15

05/24/11 AMEND: Article 20, section 51.24

04/19/11 AMEND: 1005, 1007, 1008

04/19/11 AMEND: 1018

04/13/11 AMEND: 1054

04/11/11 ADOPT: 999.24, 999.25, 999.26, 999.27, 999.28, 999.29 AMEND: 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, 999.22

03/30/11 AMEND: 9070, 9072, 9073, 9077

03/16/11 AMEND: 2037

Title 13

07/06/11 ADOPT: 1231.2 AMEND: 1200, 1201, 1217, 1221, 1222, 1232

07/01/11 AMEND: 156.00, 156.01

04/01/11 AMEND: 553.70

03/07/11 AMEND: 2477

02/24/11 ADOPT: 551.21

02/24/11 ADOPT: 551.19, 551.20, 551.23, 551.24, 551.25 AMEND: 550, 551.2, 551.11, 551.12

02/22/11 AMEND: 551.14, 555.1, 584

Title 13, 17

06/20/11 AMEND: Title 13: 2299.5 and Title 17: 93118.5

Title 14

07/12/11 ADOPT: 749.6

07/08/11 ADOPT: 708.1, 708.2, 708.3, 708.4, 708.5, 708.6, 708.7, 708.8, 708.9, 708.10, 708.11, 708.12, 708.13, 708.14, 708.15, 708.16, 708.17 AMEND: 360, 361, 362, 363, 364, 365, 366, 353, 354, 478.1, 702, 711 REPEAL: 708

06/21/11 AMEND: 7.50

06/16/11 AMEND: 7.00, 7.50

06/13/11 AMEND: 632

06/09/11 AMEND: 27.20, 27.25, 27.30, 27.32 (renumbered to 27.35), 27.35 (renumbered to 27.40), 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 52.10, 150.16 REPEAL: 27.40, 28.51, 28.52, 28.53, 28.57

05/19/11 AMEND: 632

05/12/11 ADOPT: 28301

05/11/11 AMEND: 27.80

05/03/11 AMEND: 790, 815.05, 816.01, 816.02, 816.03, 816.05, 817.02, 817.03, 818.02, 818.03, 825.05, 825.07, 826.01, 826.02, 826.03, 826.05, 827.01, 827.02

05/02/11 AMEND: 925.7, 925.10, 926.9, 926.10, 927.5, 928.5, 928.6, 945.4, 965.4

05/02/11 AMEND: 898.2

04/29/11 ADOPT: 1570, 1571, 1572, 1572.1, 1572.2, 1573, 1573.1, 1573.2, 1573.3, 1573.4, 1573.5, 1573.6, 1574, 1575, 1575.1, 1575.2, 1575.3, 1576

04/25/11 AMEND: 1670

04/06/11 ADOPT: 749.6

04/01/11 AMEND: 27.80

03/09/11 ADOPT: 703 AMEND: 671, 671.1, 671.7

02/24/11 AMEND: 11600

02/17/11 REPEAL: 19020, 19021, 19022, 19023, 19024, 19025

Title 15

07/07/11 ADOPT: 3076.4, 3076.5 AMEND: 3076, 3076.1, 3076.2, 3076.3

06/27/11 AMEND: 3140

06/20/11 ADOPT: 8007, 8008 AMEND: 8000

06/15/11 ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000

06/15/11 ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000

06/14/11 AMEND: 3000, 3045.3, 3123, 3134, 3250.4, 3269.1, 3274, 3383, 3482

06/02/11 AMEND: 3378
 05/26/11 ADOPT: 1747.1, 1749.1, 1750.1
 AMEND: 1706, 1747, 1748, 1749, 1750,
 1752, 1756, 1757, 1767
 05/26/11 AMEND: 3025, 3291, 3296, 3300, 3301,
 3383, 3397 REPEAL: 3302
 05/13/11 REPEAL: 1
 05/11/11 AMEND: 3335
 04/29/11 ADOPT: 3359.1, 3359.2, 3359.3, 3359.4,
 3359.5, 3359.6, 3359.7 AMEND: 3000
 04/15/11 ADOPT: 3769, 3769.1, 3769.2, 3769.3,
 3769.4, 3769.5, 3769.6
 03/28/11 AMEND: 3269
 03/09/11 ADOPT: 3800, 3800.1, 3800.2, 3800.3
 03/03/11 ADOPT: 3520, 3521, 3521.1, 3521.2,
 3521.3, 3521.4, 3521.5, 3522, 3523,
 3525, 3526, 3527
 02/18/11 AMEND: 4710, 4711, 4712, 4713, 4714

Title 16

07/12/11 ADOPT: 1399.547
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 05/18/11 AMEND: 1536
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 04/26/11 AMEND: 1306
 04/25/11 AMEND: 48.3
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 04/15/11 ADOPT: 2007, 2010.05 AMEND:
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 04/14/11 AMEND: 70

04/14/11 ADOPT: 2086, 2086.1, 2086.2, 2086.3,
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 03/17/11 AMEND: 2260, 2266, 2282, 2282.1
 03/14/11 ADOPT: 4125 AMEND: 4123
 03/09/11 ADOPT: 1007, 1008 AMEND: 1017.2
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 4.1, 4.2, 4.3, 7.2, 8.1, 8.3, 8.4, 8.5, 8.6,
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